

# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXVIII May 24, 2006 NUMBER 24 Pages 1693 to 1740

# **CONTENTS IN THIS ISSUE**

Pages 1704 to 1738 include ARC 5105B to ARC 5125B

ADMINISTRATIVE SERVICES DEPARTMENT[11]	<b>NULLIFICATION</b>
Filed Without Notice, Sick leave, 63.3, 64.16	
<b>ARC 5117B</b>	PROFESSIONAL LICENSURE DIVISION[645] PUBLIC HEALTH DEPARTMENT[641]"umbrella"
AGENDA	Notice, Barbers—licensure, 21.2(1), 21.3(1)
Administrative rules review committee 1698	<b>ARC 5108B</b>
	Filed, Barbers—competency examination,
AGRICULTURE AND LAND STEWARDSHIP	20.1, 25.5 <b>ARC 5107B</b>
DEPARTMENT[21]	Filed, Hearing aid dispensers—competency
Notice, Grape and wine development funding	examination, 120.1, 124.5 <b>ARC 5106B</b> 1731
program, ch 52 <b>ARC 5118B</b> 1704	Filed, Respiratory care practitioners—retention
	of licensure overpayments, 260.1
ALL AGENCIES	ARC 5105B 1732
Schedule for rule making 1696	
Publication procedures	PUBLIC HEALTH DEPARTMENT[641]
Administrative rules on CD-ROM 1697	Notice, EMS provider education/training/
Agency identification numbers 1702	certification, 131.1, 131.4 <b>ARC 5113B</b> 1707
	Notice, EMS—disciplinary appeals, 132.10(5) <b>ARC 5114B</b>
BANKING DIVISION[187]	ARC 5114D 1/0/
COMMERCE DEPARTMENT[181]"umbrella"	PUBLIC HEARINGS
Filed, Mortgage bankers and mortgage brokers, ch 18 ARC 5112B	Summarized list
CII 16 ARC 5112D 1/10	Summarized list
CITATION OF ADMINISTRATIVE RULES 1695	PUBLIC SAFETY DEPARTMENT[661]
CIMITON OF ADMINISTRATIVE ROLLS 1073	Filed, Certification of automatic fire extinguishing
ELDER AFFAIRS DEPARTMENT[321]	system contractors, ch 275 ARC 5120B 1732
Filed, Case management program for frail	,
elders, ch 21 <b>ARC 5121B</b> 1724	REGENTS BOARD[681]
,	Notice, Application fee—University of Iowa
IOWA FINANCE AUTHORITY[265] ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"	PharmD program, 1.7 <b>ARC 5116B</b> 1708
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"	Filed, Update of references, rescission of
Notice, Housing assistance fund (HAF),	outdated rules, additions for compliance with
rescind ch 15 <b>ARC 5123B</b>	legislative changes and with updated business
Filed Emergency After Notice, Title guaranty	practices, rescind ch 6; amend chs 8, 10, 17
division, 9.3, 9.6, 9.8, 9.12(1) <b>ARČ 5122B</b> 1713	ARC 5115B 1738
MEDICAL EVAMINEDO DO ADDICEZI	
MEDICAL EXAMINERS BOARD[653] PUBLIC HEALTH DEPARTMENT[641]"umbrella"	REVENUE DEPARTMENT[701]
Filed, Public record—board-ordered dismissal	Notice of electric and natural gas delivery tax rate
on part or all of charges in a contested case,	changes
2.14(4) <b>ARC 5110B</b>	imposed tax on lodging, other excise taxes,
Filed, Supervision of pharmacists engaged in	amend chs 10, 103 to 105, 107, 211, 219, 230,
collaborative drug therapy management, 13.4,	231; adopt ch 241 <b>ARC 5119B</b>
13.5 ARC 5111R 1728	251, adopt on 271 ANC 31170 1730

#### **PREFACE**

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: Italics indicate new material added to existing rules; strike through letters indicate deleted material.

Subscriptions and Distribution	. Telephone: Fax:	(515)281-6766 (515)281-6625
KATHLEEN K. WEST, Administrative Code Editor STEPHANIE A. HOFF, Deputy Editor	Telephone:	(515)281-3355 (515)281-8157
SIZITI III Z IN 11011, Z VP W J Zulioi	Fax:	(515)281-5534

### SUBSCRIPTION INFORMATION

#### **Iowa Administrative Bulletin**

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

July 1, 2005, to June 30, 2006	\$320
October 1, 2005, to June 30, 2006	\$240
January 1, 2006, to June 30, 2006	\$160
April 1, 2006, to June 30, 2006	\$ 80

Single copies may be purchased for \$23.

#### **Iowa Administrative Code**

The Iowa Administrative Code and Supplements are sold in complete sets by subscription. Supplement (replacement pages) subscriptions must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

#### **Iowa Administrative Code** – \$1,475

(Price includes complete set of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders may be purchased for \$20.)

#### **Iowa Administrative Code Supplement** – \$495

(Subscription expires June 30, 2006)

All checks should be made payable to the Treasurer, State of Iowa. Send all inquiries and subscription orders to:

Attn: Nicole Navara Legislative Services Agency Miller Building Des Moines, IA 50319 Telephone: (515)281-6766

SECRETARY OF STATE[721]	UTILITIES DIVISION[199]
Filed Emergency After Notice, Eligibility declarations	COMMERCE DEPARTMENT[181] "umbrella" Notice, Interstate natural gas pipelines, 9.1 to 9.7,
in election register, 21.4(3), 21.5 <b>ARC 5125B</b> 1713 Filed Emergency, Voting device in audible	12.1, 12.3 to 12.5, 12.7 <b>ARC 5124B</b> 1710
format, 22.434(2) <b>ARC 5109B</b> 1714	
TREASURER OF STATE Notice—Public funds interest rates 1709	

#### **CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

1696 IAB 5/24/06

# Schedule for Rule Making 2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
***May 17***	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
***June 28***	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
***Aug. 23***	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
***Nov. 15***	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
***Dec. 13***	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
***Dec. 27***	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB			
<b>ISSUE NUMBER</b>	SUBMISSION DEADLINE	ISSUE DATE	
26	Friday, June 2, 2006	June 21, 2006	
1	Friday, June 16, 2006	July 5, 2006	
2	Wednesday, June 28, 2006	July 19, 2006	

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

<sup>\*\*\*</sup>Note change of filing deadline\*\*\*

IAB 5/24/06 1697

# **PUBLICATION PROCEDURES**

TO: Administrative Rules Coordinators and Text Processors of State Agencies

FROM: Kathleen K. West, Iowa Administrative Code Editor SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

<u>bruce.carr@legis.state.ia.us</u> and <u>kathleen.west@legis.state.ia.us</u>

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

#### IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

#### 2005 SUMMER EDITION

Containing: **Iowa Administrative Code** (updated through July 2005)

Iowa Administrative Bulletins (January 2005 through July 2005)

**Iowa Court Rules** (updated through July 2005)

For free brochures and order forms contact:

Legislative Services Agency Attn: Nicole Navara Miller Building

Des Moines, Iowa 50319

Telephone: (515)281-6766 Fax: (515)281-6625

nicole.navara@legis.state.ia.us

The Administrative Rules Review Committee will hold a special meeting on Thursday, June 8, 2006, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11] Sick leave—accrual, insurance program, 63.3, 63.3(4), 63.3(10), 64.16, Filed Without Notice ARC 5117B	5/24/06
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21] Grape and wine development funding program, adopt ch 52,  Notice ARC 5118B	5/24/06
BANKING DIVISION[187] COMMERCE DEPARTMENT[181]"umbrella" Mortgage bankers and mortgage brokers, adopt ch 18, Filed ARC 5112B	5/24/06
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  Iowa community development block grant program, 23.4(4), 23.4(8),  23.6(3)"d" to "g," Filed ARC 5104B	5/10/06
EDUCATIONAL EXAMINERS BOARD[282] EDUCATION DEPARTMENT[281] "umbrella"  EDUCATION DEPARTMENT[281] "umbrella"  EDUCATION DEPARTMENT[281] "umbrella"	5/10/0 <i>C</i>
Proof of legal presence, adopt ch 7, Notice ARC 5101B	
11.38, 11.39, Notice ARC 4812B, Terminated ARC 5097B  Requirements for a class G license, 14.132, Filed ARC 5099B  Renewal of substitute authorization, 14.143(2), 14.143(3), Filed ARC 5098B  Audit of renewal, 17.13, Notice ARC 5100B	5/10/06 5/10/06
ELDER AFFAIRS DEPARTMENT[321] Case management program for frail elders, adopt ch 21, Filed ARC 5121B	5/24/06
ENVIRONMENTAL PROTECTION COMMISSION[567] NATURAL RESOURCES DEPARTMENT[561] "umbrella"	
Effective date of storm water general permit no. 2, 64.15(2),  Filed Emergency ARC 5090B	
Household hazardous materials, 144.3, Filed ARC 5091B	5/10/06
HUMAN SERVICES DEPARTMENT[441]  Accreditation of providers of services to persons with mental illness, mental retardation, and developmental disabilities, 24.1, 24.3(1)"b," 24.3(2)"b"(3), 24.3(4)"b"(2), 24.3(5)"b"(6), 24.4(5)"a," 24.4(5)"b"(1) and (2), 24.4(6)"b," 24.4(10)"b"(9), 24.4(11)"b"(1) to (17), 24.4(13)"b"(9), 24.4(14)"b"(1) to (10), 24.5(4)"b"(2) and (3), 24.5(5)"f"(4), 24.5(6), 24.5(7), 24.6, 24.6(1), 24.7(3), Filed ARC 5096B	5/10/06
Medicaid applicants—documentation of citizenship or nationality, 75.11(2)"c" to e,"  Notice ARC 5076B, also Filed Without Notice ARC 5077B	
Providers of lead inspection services, 77.40, Filed ARC 5080B	5/10/06
78.49(5)"a" and "c," 78.50(4)"a" and "c," Filed ARC 5079B	5/10/06
disproportionate share fund, amendments to ch 79, Filed ARC 5081B  Rehabilitative treatment services providers—deemed certification status, 185.1, 185.11(1), Filed Emergency After Notice ARC 5078B	
IOWA FINANCE AUTHORITY[265] ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] "umbrella"	
Title guaranty division, 9.3, 9.6(1), 9.6(2)"a," 9.6(2)"h""3," 9.6(3)"f" to "i," 9.8, 9.12(1),  Filed Emergency After Notice ARC 5122B	5/24/06
Housing assistance fund (HAF), rescind ch 15, Notice ARC 5123B	

LABOR SERVICES DIVISION[875] WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"
Agency procedures; adoption by reference of federal occupational safety and health regulations, 1.102, 10.20, 26.1, 28.1, Notice ARC 5084B
Construction safety and health—federal regulations adopted by reference,
26.1, <u>Filed</u> <b>ARC 5083B</b>
Wage collection payment, ch 35, Notice ARC 5092B
Elevators, escalators and related equipment, chs 65 to 70, 72.5, 73.25, 73.26, Notice ARC 5102B
Boilers and pressure vessels, chs 80 to 85, 95; 95.3(5); chs 200, 201, 203 to 209, Notice ARC 5082B
171.6(4); chs 172 to 174; 174.1, 174.3(1), 174.5, 174.9, 174.10; chs 175, 176;
176.3; chs 177, 202, Notice ARC 5085B
LATINO AFFAIRS DIVISION[433]
HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Qualification of language interpreters, ch 2, Filed ARC 5087B
MEDICAL EXAMINERS BOARD[653] PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Public records—board-ordered dismissal of charges, 2.14(4), Filed ARC 5110B
Supervision of pharmacists engaged in collaborative drug therapy management, 13.4, 13.5, Filed ARC 5111B
PROFESSIONAL LICENSURE DIVISION[645] PUBLIC HEALTH DEPARTMENT[641] "umbrella"
Barber examiners—overpayments, competency examination, 20.1, 25.5, Filed ARC 5107B
Barber examiners—postmark of examination application and supporting information,
21.2(1)"g," 21.3(1)"a," Notice ARC 5108B
Chiropractic examiners—overpayments, competency examination, 40.1, 45.5, Filed ARC 5071B
Chiropractic examiners—continuing education, 44.3(2)"a"(1), 44.3(2)"c" and "d," Filed ARC 5073B
Hearing aid dispenser examiners—overpayments, competency examination,  120.1, 124.5, Filed ARC 5106B
Optometry examiners—overpayments, competency examination, 179.1, 183.5, Filed ARC 5074B
Optometry examiners—continuing education, 181.3(2)"a"(4), 181.3(2)"c,"  181.4(2), Filed ARC 5088B
Respiratory care examiners—overpayments, 260.1, Filed ARC 5105B
Physician assistant examiners—overpayments, license reactivation, competency examination, 325.1, 326.8(1)"d," 329.3"7," 329.5, Filed ARC 5089B
PUBLIC HEALTH DEPARTMENT[641]
EMS provider education/training/certification, 131.1, 131.4(1)"a," "b" and "g,"
131.4(6)"a" and "c," <u>Notice</u> <b>ARC 5113B</b>
EMS service program authorization—disciplinary appeals, 132.10(5) Notice ARC 5114B
PUBLIC SAFETY DEPARTMENT[661]
Certification of automatic fire extinguishing system contractors, adopt ch 275, Filed ARC 5120B
RACING AND GAMING COMMISSION[491] INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"
Contested cases; racing; gambling games; accounting and cash control, 4.4(8), 9.2(10)"e"(2),
9.4(5)"c," 9.4(8)"b," 9.5(1)"a"(11), 9.6(1)"l," 9.6(10)"b," 9.6(18)"a"(11), 9.6(18)"e"(2), 9.6(18)"g," 9.6(19)"a"(2), 9.6(20)"s," 10.2(9), 10.4(5)"f," 10.4(17)"g,"
11.9(2)"b," 11.9(5), 11.10(2), 11.10(4), 11.12(2), 12.14(4), <u>Filed</u> <b>ARC 5075B</b>
REGENTS BOARD[681]
University of Iowa—application fee for PharmD program, 1.7, Notice ARC 5116B
University of Iowa hospitals; purchasing; public records, ch 6, 8.2(4), 8.3, 8.5, 8.6(1),
8.6(2)"c," "e" and "f," 8.6(3), 8.7(2), 8.7(14), 8.9(2), 10.1 to 10.3, 17.13(2)"b," 17.14(3)"o" and "p," Filed ARC 5115B
•
REVENUE DEPARTMENT[701] Hotel and motel tax; local option sales and service tax; streamlined sales and use tax agreement;
excise taxes not governed by streamlined sales and use tax agreement, amendments to chs 103 to 105,
107, 211, 219, 230, 231; adopt ch 241, Filed ARC 5119B

SECRETARY OF STATE[721]
Voter declaration of eligibility, 21.4(3), 21.5, Filed Emergency After Notice ARC 5125B
Voting systems—memory card security, AutoMARK voter assist terminals,
22.51, 22.261(20), Filed Emergency After Notice ARC 5103B
Audio ballots, 22.434(2), Filed Emergency ARC 5109B
TD A NODODTATION DEDADTMENT(7/1)
TRANSPORTATION DEPARTMENT[761]
Motor carrier regulations—federal regulation citation updated, 529.1, <u>Filed</u> <b>ARC 5086B</b>
UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"
Interstate natural gas pipelines, 9.1 to 9.3, 9.7, 12.1, 12.3 to 12.5, 12.7, Notice ARC 5124B
VOTED DECICED ATION COMMISSION(921)
VOTER REGISTRATION COMMISSION[821]
Specifications for voter registration data processing services contracts and approval procedure for such contracts, rescind ch 4, Filed ARC 5094B
County maintenance file input specifications, rescind ch 7, Filed ARC 5095B
National change of address program, ch 9, Filed ARC 5093B

#### ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time. **EDITOR'S NOTE: Terms ending April 30, 2007.** 

Senator Michael Connolly 2600 Renaissance Drive, #3 Dubuque, Iowa 52001

Senator Thomas Courtney 2200 Summer Street Burlington, Iowa 52601

Senator John P. Kibbie

P.O. Box 190

Emmetsburg, Iowa 50536 Senator Paul McKinley 21884 483rd Lane Chariton, Iowa 50049

Senator James Seymour 901 White Street Woodbine, Iowa 51579

Joseph A. Royce **Legal Counsel** Capitol, Room 116A Des Moines, Iowa 50319 Telephone (515)281-3084 Fax (515)281-5995 Representative Danny Carroll

244 400th Avenue Grinnell, Iowa 50112

Representative George Eichhorn

P.O. Box 140

Stratford, Iowa 50249

Representative Marcella R. Frevert

P.O. Box 324

Emmetsburg, Iowa 50536

Representative David Heaton 510 East Washington

Mt. Pleasant, Iowa 52641 Representative Geri Huser 213 Seventh Street NW Altoona, Iowa 50009

Sonya Streit

**Administrative Rules Coordinator** Governor's Ex Officio Representative

Capitol, Room 11

Des Moines, Iowa 50319

# **PUBLIC HEARINGS**

#### EDUCATIONAL EXAMINERS BOARD[282]

Room 3 North, 3rd Floor Grimes State Office Bldg. Des Moines, Iowa	May 30, 2006 2:30 p.m.
Room 3 North, 3rd Floor May 30 Grimes State Office Bldg. 2 p.m.	
	Grimes State Office Bldg. Des Moines, Iowa Room 3 North, 3rd Floor

#### LABOR SERVICES DIVISION[875]

Procedural rules; OSHA regulations, 1.102, 10.20, 26.1, 28.1 IAB 5/10/06 ARC 5084B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	May 31, 2006 2:30 p.m.
Wage collection payment, 35.1 to 35.5 IAB 5/10/06 ARC 5092B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	June 2, 2006 11 a.m. (If requested)
Elevator safety rules, adopt chs 65 to 70; amend chs 72, 73 IAB 5/10/06 ARC 5102B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	June 1, 2006 8 a.m.
Boiler and pressure vessel rules, adopt chs 80 to 85; amend chs 200, 201, 203 to 209 IAB 5/10/06 ARC 5082B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	May 31, 2006 9 a.m. (If requested)
Wrestling and boxing rules; special inspectors, amendments to chs 94 to 101, 202 IAB 5/10/06 ARC 5085B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	May 31, 2006 1 p.m. (If requested)

## PROFESSIONAL LICENSURE DIVISION[645]

Barbers—licensure,	Fifth Floor Board Conference Room	June 14, 2006
21.2(1)"g," 21.3(1)"a"	Lucas State Office Bldg.	9 to 9:30 a.m.
IAB 5/24/06 ARC 5108B	Des Moines, Iowa	

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."

Other autonomous agencies which were not included in the original reorganization legislation as "umbrella" agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

#### ADMINISTRATIVE SERVICES DEPARTMENT[11] AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21] Agricultural Development Authority[25] Soil Conservation Division[27] ATTORNEY GENERAL[61] AUDITOR OF STATE[81] BEEF INDUSTRY COUNCIL, IOWA[101] BLIND, DEPARTMENT FOR THE[111] CAPITAL INVESTMENT BOARD, IOWA[123] CITIZENS' AIDE[141] CIVIL RIGHTS COMMISSION[161] COMMERCE DEPARTMENT[181] Alcoholic Beverages Division[185] Banking Division[187] Credit Union Division[189] Insurance Division[191] Professional Licensing and Regulation Division[193] Accountancy Examining Board[193A] Architectural Examining Board[193B] Engineering and Land Surveying Examining Board[193C] Landscape Architectural Examining Board[193D] Real Estate Commission[193E] Real Estate Appraiser Examining Board[193F] Savings and Loan Division[197] Utilities Division[199] CORRECTIONS DEPARTMENT[201] Parole Board[205] CULTURAL AFFAIRS DEPARTMENT[221] Arts Division[222] Historical Division[223] ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] City Development Board[263] Grow Iowa Values Board[264] Iowa Finance Authority[265] **EDUCATION DEPARTMENT[281]** Educational Examiners Board[282] College Student Aid Commission[283] Higher Education Loan Authority[284] Iowa Advance Funding Authority[285] Libraries and Information Services Division[286] Public Broadcasting Division[288] School Budget Review Committee [289] EGG COUNCIL, IOWA[301] ELDER AFFAIRS DEPARTMENT[321] EMPOWERMENT BOARD, IOWA[349] ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351] **EXECUTIVE COUNCIL[361]** FAIR BOARD[371] HUMAN INVESTMENT COUNCIL[417] HUMAN RIGHTS DEPARTMENT[421] Community Action Agencies Division[427] Criminal and Juvenile Justice Planning Division[428] Deaf Services Division[429] Persons With Disabilities Division[431] Latino Affairs Division[433] Status of African-Americans, Division on the [434] Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

#### INSPECTIONS AND APPEALS DEPARTMENT[481]

Employment Appeal Board[486]

Foster Care Review Board [489]

Racing and Gaming Commission[491]

State Public Defender[493]

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

LAW ENFORCEMENT ACADEMY[501]

LIVESTOCK HEALTH ADVISORY COUNCIL[521]

LOTTERY AUTHORITY, IOWA[531]

MANAGEMENT DEPARTMENT[541]

Appeal Board, State[543]

City Finance Committee [545]

County Finance Committee [547]

NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]

NATURAL RESOURCES DEPARTMENT[561]

Energy and Geological Resources Division[565]

Environmental Protection Commission[567]

Natural Resource Commission[571]

Preserves, State Advisory Board for [575]

PETROLEUM UNDERGROUND STORAGE TANK FUND

BOARD, IOWA COMPREHENSIVE[591]

PREVENTION OF DISABILITIES POLICY COUNCIL[597]

PUBLIC DEFENSE DEPARTMENT[601]

Homeland Security and Emergency Management Division[605]

Military Division[611]

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

PUBLIC HEALTH DEPARTMENT[641]

Professional Licensure Division[645]

Dental Examiners Board[650]

Medical Examiners Board[653]

Nursing Board[655]

Pharmacy Examiners Board[657]

PUBLIC SAFETY DEPARTMENT[661]

RECORDS COMMISSION[671]

REGENTS BOARD[681]

Archaeologist[685]

REVENUE DEPARTMENT[701]

SECRETARY OF STATE[721]

SEED CAPITAL CORPORATION, IOWA[727]

SHEEP AND WOOL PROMOTION BOARD, IOWA[741]

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

TRANSPORTATION DEPARTMENT[761]

Railway Finance Authority[765] TREASURER OF STATE[781] TURKEY MARKETING COUNCIL, IOWA[787]

UNIFORM STATE LAWS COMMISSION[791]

VETERANS AFFAIRS COMMISSION[801]

VETERINARY MEDICINE BOARD[811]

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

VOTER REGISTRATION COMMISSION[821]

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Labor Services Division[875]

Workers' Compensation Division[876]

Workforce Development Board and

Workforce Development Center Administration Division[877]

#### **ARC 5118B**

# AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 175A.3, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to adopt Chapter 52, "Grape and Wine Development Funding Program," Iowa Administrative Code.

The purpose of this proposed rule making is to establish procedures to govern the administration of the Grape and Wine Development Fund by the Department of Agriculture and Land Stewardship in accordance with Iowa Code chapter 175A.

Any interested person may make written suggestions or comments on the proposed rules prior to 4:30 p.m. on June 13, 2006. Such written material should be directed to Mike Bevins, State Horticulturist, Bureau of Horticulture and Farmers' Markets, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5015 or by E-mail to <a href="mailto:mike.bevins@idals.state.ia.us">mike.bevins@idals.state.ia.us</a>.

No waiver provision is included in these proposed rules; however, the Department has a general rule which allows for waivers in appropriate cases. The waiver rule applies to these rules.

These rules are intended to implement Iowa Code chapter 175A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

#### CHAPTER 52 GRAPE AND WINE DEVELOPMENT FUNDING PROGRAM

- 21—52.1(175A) Authority and scope. This chapter establishes procedures to govern the administration of the grape and wine development fund by the department of agriculture and land stewardship in accordance with Iowa Code chapter 175A
- 21—52.2(175A) Severability. If any provision of a rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision, and, to this end, the provisions of these rules are severable.

#### 21—52.3(175A) Goals and purpose.

**52.3**(1) The goals of this program are to:

a. Assist persons in establishing, improving, or expanding vineyards or winemaking operations, including wineries; and

- b. To enhance and develop the native wine industry and to provide an infrastructure to encourage the growth of the native wine industry in this state.
- **52.3(2)** Purpose. The purpose of this program is to provide assistance to eligible applicants to carry out grape and wine development programs.

#### 21—52.4(175A) Definitions.

"Commission" means the grape and wine development commission as established pursuant to Iowa Code section 175A.2.

"Department" means the department of agriculture and land stewardship.

"Indemnification" means compensation for sustained loss or damage.

#### 21—52.5(175A) Administration.

**52.5(1)** The commission shall:

- a. Determine needs and priorities related to the development of Iowa's grape and wine industry and develop requests for proposals to address these needs and priorities.
- b. Approve or disapprove applications for financial assistance after departmental review and recommendation.
- c. Make recommendations to the department regarding the expenditure of moneys to enhance and develop the native wine industry and to provide an infrastructure to encourage the growth of the native wine industry in this state.

**52.5(2)** The department shall:

- a. Establish grape and wine development programs and account for and expend moneys from the grape and wine development fund.
- b. Consult with the commission prior to authorizing an expenditure of moneys.

# 21—52.6(175A) Grape and wine development programs. 52.6(1) The programs may provide for all of the following:

- a. Technical assistance which may include all the following:
- (1) Viticultural assistance in order to increase the size of vineyards, improve yield, and enhance the character, composition, and condition of grapes. The department may provide technical assistance regarding the selection and management of vines suitable for regions of this state; cultivation and harvest practices; the implementation of practices designed to improve grape growing based on soil types, nutrients and minerals, space, climate, and drainage; the use of recommended varieties of native or hybrid cultivars; and disease, weed, and pest control, including the safe and effective application of pesticides or herbicides or the use of organic practices.
- (2) Oenological assistance which may be based on oenological study in order to produce, preserve, and transport commercially viable wines, including high-quality wines, wines adapted to particular regions of the state, and wines with distinctive tastes produced from native or hybrid cultivars. The technical assistance may include assistance regarding improving practices or constructing facilities designed to expand or improve processing, cellarage, or bottling.
- b. Financial assistance which shall be in the form of a loan, forgivable loan, cost share, indemnification of costs, or any combination of such financing as deemed appropriate by the commission. Financial assistance may be awarded to persons beginning or engaged in grape growing or winemaking in Iowa, based on a sound business plan that demonstrates the viability of the proposed operations. Financial assistance received shall be used within the state of Iowa. Vot-

#### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ing members of the commission are ineligible to receive financial assistance while serving on the commission.

- (1) Each applicant must complete the documents required in the request for proposals. The applicant must submit the completed forms and requested information to the department at the following address: Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Copies of the "grape and wine development funding program, request for proposals" are available through the department at the address above or on the designated department Web site.
- (2) The deadlines for submission shall be determined by the commission.

**52.6(2)** Financial assistance caps and eligible costs.

- a. Applicants may request up to \$10,000, or with the mutual consent of the department and the commission up to \$25,000, in financial assistance for costs including, but not limited to:
- (1) Planning and implementing educational forums, including, but not limited to, workshops;
- (2) Developing, printing and distributing educational materials, including, but not limited to, handouts for workshops and public awareness/education pamphlets;
- (3) Salaries directly related to the implementation and operation of the project;
- (4) Research/laboratory equipment and supplies directly related to the implementation and operation of the project;
- (5) Vineyard trellising materials, grape plants or cuttings, chemicals, and site preparation costs directly related to the implementation and operation of the project; and
- (6) Winery equipment and building costs directly related to the implementation and operation of the project.
- b. Applicants may request up to \$5,000, or with the mutual consent of the department and the commission up to \$10,000, in financial assistance for material loss of grape crop, secondary grape products, and research/laboratory equipment and supplies if the material loss is caused by fire, damaging weather, natural occurrence, or a related condition.

**52.6**(3) Ineligible costs include, but are not limited to:

- a. Land acquisition;
- b. Taxes:
- c. Vehicle registration;
- d. Overhead expenses or indirect costs;
- e. Legal costs;
- f. Contingency funds;
- g. Proposal preparation;
- h. Contractual project administration;
- Costs for which payment has or will be received under another federal, state or private funding program;
- j. Costs for which insurance will cover any loss for which the applicant has requested financial assistance; or
  - Political or lobbying activities.

#### **52.6(4)** Criteria for selecting proposals.

- a. The commission will approve, disapprove or partially approve applications for financial assistance, after department review and recommendation, based on the following criteria:
- (1) Need for the project and the benefits to the Iowa grape growing and winemaking industry;
  - (2) Soundness of the project information narrative;
  - (3) Reasonableness of the budget;
  - (4) Innovation of the project;
  - (5) Sustainability of the project;
  - (6) Ease or difficulty in duplicating project outcomes; and
  - (7) Degree of collaboration or partnership.

- b. Applications for financial assistance may be disapproved for any of the following reasons, including, but not limited to:
  - (1) Insufficient moneys in the fund;
- (2) An applicant does not meet the eligibility requirements;
- (3) An applicant does not provide sufficient information on forms provided by the department;
- (4) An applicant is delinquent on payments for financial assistance already received through the program;
- (5) The project goals or purposes are not consistent with this program or the request for proposals; or
- (6) The applicant has requested or received funding to indemnify for material loss of grape crop, secondary grape products, and research/laboratory equipment and supplies in either of the past two years.

**52.6(5)** Financial assistance disbursement limitations.

- a. Financial assistance may be offered in an amount less than that requested by the applicant. In such case, the applicant may be requested to document the impact on the proposed project. Reduced financial assistance may be offered in any of the following circumstances:
- (1) Moneys in the grape and wine development fund are insufficient to provide for all applicants the level of funding requested;
- (2) The applicant can implement the project at a reduced level of financial assistance and achieve the project objectives and goals of this program; or
- (3) The term of a proposed project may be reduced, thus affecting the total proposed costs. In such case, the applicant may reapply for financial assistance in future submission periods.
- b. Financial assistance shall not be disbursed by the department until:
- (1) The department has determined that financing for any cost share amount is ensured by the applicant; reviewed and recommended the application to the commission; executed a written contract with the applicant; and ensured that moneys in the grape and wine development fund are available for disbursement; and
  - (2) The commission has approved the application.

#### 52.6(6) Contracts and loans.

- a. Applicants shall enter into a contract with the department for the purpose of implementing the project for which financial assistance has been awarded. The contract shall be signed by an appointed authority of the department and a representative that has the legal authority to obligate the applicant. The recipient shall be required to submit periodic financial and progress reports as identified in the executed contract. Financial and progress reports are considered part of the public record. The department may terminate any contract and seek the return of any financial assistance released under the contract for material breach under the terms and conditions of the contract. The department may seek the return of any unused financial assistance under the terms of the contract. Written amendments to contracts may be adopted by mutual consent between the department and the recipient.
- b. Loans executed in accordance with these rules shall be determined on a case-by-case basis and shall be based on the specific capital costs financed, as well as the terms of other financing provided for the project. A written contract between the department and the recipient shall establish other conditions of terms needed to manage or implement the project. The recipient shall be required to make regularly scheduled installment payments to retire the loan and any interest assigned to the loan as identified in the executed contract.

#### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

**52.6(7)** Notification. The department will notify applicants regarding the status of their proposals within two months after the applicable submission deadlines. An extension may be necessary if the commission requests additional information from an applicant about any of the proposals under review.

21—52.7(175A) Appeal. A recipient who wishes to appeal the department's decision to terminate a contract or seek the return of financial assistance released under a contract may make a written request for administrative appeal. The appeal shall be made within 15 days of notification. The provisions of 21—Chapter 2 shall be applicable to an appeal except as otherwise provided in this chapter. Expiration of a contract shall not be subject to appeal.

These rules are intended to implement Iowa Code chapter 175A.

#### **ARC 5123B**

## **IOWA FINANCE AUTHORITY[265]**

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17), the Iowa Finance Authority hereby gives Notice of Intended Action to rescind Chapter 15, "Housing Assistance Fund (HAF)," Iowa Administrative Code.

The principal reasons for this action are to eliminate outdated and superfluous rules and the anticipated termination of funding for the programs authorized under Chapter 15 pursuant to legislation supported by the Authority.

The Authority will receive written comments on the proposed rescission until 4:30 p.m. on June 13, 2006. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309; faxed to (515)242-4957; or E-mailed to <a href="mark.thompson@iowa.gov">mark.thompson@iowa.gov</a>. Persons who wish to comment orally should contact Mark Thompson at (515)242-4990.

This rescission is intended to implement Iowa Code sections 16.5(17) and 16.181.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind and reserve **265—Chapter 15**.

#### **ARC 5108B**

# PROFESSIONAL LICENSURE DIVISION[645]

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapter 21, "Licensure of Barbers," Iowa Administrative Code.

These proposed amendments provide that an examination application and required supporting data and documentation shall be postmarked within 14 days prior to the examination date in order for an applicant to be eligible to take the examination. This change reduces the number of days required for the information to be postmarked.

Any interested person may make written comments on the proposed amendments no later than June 14, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail <a href="mailto:pwilson@idph.state.">pwilson@idph.state.</a> ia.us.

A public hearing will be held on June 14, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **21.2**(1), paragraph "g," as follows:

g. An application for barber examination must be post-marked at least 20 14 days prior to the examination.

ITEM 2. Amend subrule **21.3**(1), paragraph "a," as follows:

a. In order to be eligible to take the examinations, the supporting data and documentation required by the board shall be postmarked at least 20 14 days prior to the examinations

#### **ARC 5113B**

# PUBLIC HEALTH DEPARTMENT[641]

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 131, "Emergency Medical Services Provider Education/Training/Certification," Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical providers and establish a standard of conduct for training programs, students, and providers. Following is a description of the proposed amendments to Chapter 131.

Item 1 removes a reference to the Iowa Law Enforcement Academy from the definition of "training program." Rules concerning Iowa law enforcement emergency care providers are contained in IAC 641—Chapter 139.

Item 2 clarifies the emergency medical care provider student registration requirements to reflect current use of the Web-based system registry program.

Item 3 removes the requirement that students be cleared by the Bureau of Emergency Medical Services prior to beginning the clinical portion of their training. The Bureau will continue to approve individuals for certification, but students may begin clinical or field training when approved by their training program and the clinical or field site.

Items 4 and 5 increase opportunities for continuing education by providing that courses approved by the Continuing Education Coordinating Board for Emergency Medical Services or held at an accredited college or university may be counted toward emergency medical care provider certification renewal.

Any interested person may make written comments or suggestions on the proposed amendments on or before June 13, 2006. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to <a href="mailto:kschmitt@idph.state.ia.us">kschmitt@idph.state.ia.us</a>.

These amendments are intended to implement Iowa Code chapter 147A.

Å fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **641—131.1(147A)**, definition of "training program," as follows:

"Training program" means an NCA-approved Iowa college, the Iowa law enforcement academy or an Iowa hospital approved by the department to conduct emergency medical care training.

- ITEM 2. Amend subrule **131.4(1)**, paragraphs "a" and "b," as follows:
- a. Applicants shall complete an the EMS Student Registration form at the beginning of the course. EMS Student Registration forms are provided by the department shall be completed via the bureau of EMS Web site at www.idph. state.ia.us/ems.
- b. EMS Student Registration forms shall be forwarded to the department by the training program no later than two weeks completed within 14 days after the beginning of the course start date. Courses that are completed within two weeks are exempt from this requirement.
- ITEM 3. Amend subrule **131.4**(1), paragraph "g," as follows:
- g. When a student's EMS Student Registration or a candidate's EMS Certification Application is referred to the department for investigation, the student shall not be eligible for clinical or field experience, and the candidate *individual* shall not be eligible for certification testing until approved by the department.

ITEM 4. Amend subrule **131.4(6)**, paragraph "a," as follows:

a. Required CEHs identified in 131.4(4)"c" shall be approved by the department, the Continuing Education Coordinating Board for Emergency Medical Services, or an authorized EMS training program, or the department using a sponsor number assignment system approved by the department.

ITEM 5. Amend subrule **131.4(6)** by adding the following <u>new</u> paragraph "c":

c. Courses in physical, social or behavioral sciences offered by accredited colleges and universities are approved for CEHs and need no further approval.

#### **ARC 5114B**

## PUBLIC HEALTH DEPARTMENT[641]

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 132, "Emergency Medical Services—Service Program Authorization," Iowa Administrative Code.

The rules in Chapter 132 describe the standards for the transport and nontransport services that provide emergency medical care. This proposed amendment makes the disciplinary appeals process consistent with other rules of the Bureau of Emergency Medical Services by requiring appeals to be submitted within 20 days rather than 30.

#### PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any interested person may make written comments or suggestions on the proposed amendment on or before June 13, 2006. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to <a href="mailto:kschmitt@idph.state.ia.us">kschmitt@idph.state.ia.us</a>.

This amendment is intended to implement Iowa Code chapter 147A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 132.10(5) as follows:

**132.10(5)** Any requests for appeal concerning the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 30 20 days of the receipt of the department's notice. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 30 20-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, citation and warning, probation, suspension or revocation. If no request for appeal is received within the 30 20-day time period, the department's notice of denial, probation, suspension or revocation shall become the department's final agency action.

#### **ARC 5116B**

### REGENTS BOARD[681]

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

This amendment will add a new application fee to those delineated in rule 681—1.7(262). This fee will be required of individuals applying for admission to the PharmD program in the University of Iowa, College of Pharmacy. The fee of \$100 will be in addition to the \$60 application fee for domestic graduate/professional students and the \$85 application fee for international domestic graduate/professional students. The College of Pharmacy currently admits students through the Pharmacy College Application Service (PharmCAS) which is available through the American Association of Colleges of Pharmacy, and the \$100 fee would cover the processing costs. All colleges of pharmacy in the

United States utilize the PharmCAS, and the majority of them charge an additional application fee.

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681 IAC 19.18(17A).

Any interested person may make written comments on the proposed amendment on or before June 13, 2006. Comments should be directed to Marcia Brunson, Policy and Operations Officer, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322. Comments may be sent by fax to (515)281-6420 or by E-mail to <a href="mailto:mbruns@iastate.edu">mbruns@iastate.edu</a>.

This amendment is intended to implement Iowa Code section 262.9(3).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 681—1.7(262) as follows:

**681—1.7(262) Application fees.** Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

\$40
\$60
\$60
\$85
\$100
\$20
\$30
\$50
\$30
\$70
\$60
\$30
\$50
\$30
\$50

This rule is intended to implement Iowa Code section 262.9(3).

#### REVENUE DEPARTMENT

#### Notice of Electric and Natural Gas Delivery Tax Rate Changes

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the changes to the electric and the natural gas delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2005 by each taxpayer, for replacement taxes payable in the 2006-2007 fiscal year.

REVENUE DEPARTMENT(cont'd)

#### 2005 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

#### RATE CHANGES ONLY

	RATE CHANGES ONLI	
CO.#	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3201	Algona Municipal Utilities	0.00026059
3205	Alta Municipal Power Plant	0.00008375
3207	Ames Municipal Electric System	0.00000089
3074	Aurelia Mun. Electric Utility	0.00009400
3228	Bigelow Municipal Electric Utility	0.00201649
3229	Bloomfield Municipal Electric Utility	0.00003163
3079	Cascade Municipal Utilities	0.00130675
3221	Cedar Falls Municipal Elec. Utility	0.00031983
3230	City of Fredericksburg	0.00000849
3311	City of Pella	0.00006969
3236	Coggon Municipal Light Plant	0.00004776
3244	Denison Municipal Utilities	0.00001032
3252	Fontanelle Municipal Utilities	0.00033242
3231	Glidden Municipal Electric Utility	0.00000195
3093	Gowrie Municipal Utilities	0.00148389
3095	Greenfield Municipal Utilities	0.00107248
3099	Hinton Municipal Electric/Water	0.00009720
3271	Indianola Municipal Utilities	0.00000736
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00143044
3277	Laurens Municipal Utilities	0.00029755
3282	Manilla Municipal Elec. Utilities	0.00009934
3284	Mapleton Municipal Utilities	0.00009055
3288	McGregor Municipal Utilities	0.00000689
3307	Osage Municipal Utilities	0.00004959
3309	Panora Municipal Electric Utility	0.00008116
3321	Sioux Center Municipal Utilities	0.00000090
3326	State Center Municipal Light Plant	0.00031087
3327	Story City Municipal Electric Utility	0.00010589
3338	Waverly Light & Power	0.00074548
3342	Webster City Municipal Utilities	0.00027843
3351	Winterset Municipal Utilities	0.00135658
GO !!	TOTAL ELECTRIC	DELIVERY
CO.#	IOU's - ELECTRIC	TAX RATE
7248	Eldridge Electric & Water Utilities	0.00053711
7270	IES Utilities	0.00103630
7305	Omaha Public Power District	0.00119184
GO !!	DEC!	DELIVERY
CO.#	REC's	TAX RATE
4319	Access Energy Coop	0.00075412
4208	Atchison-Holt Electric Coop	0.00089319
4225	Chariton Valley Electric Coop	0.00111235
4235	Clarke Electric Coop	0.00285792
4287	Consumers Energy	0.00218836
4247	Eastern Iowa Light & Power	0.00082727
4253	Franklin Rural Electric Coop	0.00079341
4255	Glidden Rural Electric Coop	0.00058080
4262	Hancock Co. REC	0.00127158
10.00	II ' C , DEC	0.00100431

4265

Harrison County REC

4223 Heartland Power Coop

0.00108431

0.00048496

4273	Iowa Lakes Electric Coop	0.00086005
4279	Linn County REC	0.00157141
4280	Lyon Rural Electric Coop	0.00070498
4290	Midland Power Cooperative	0.00163315
4299	Nishnabotna Valley REC	0.00076653
4300	North West Rural Electric Coop	0.00053450
4308	Osceola Electric Coop	0.00041167
4322	Southern Iowa Electric Coop	0.00134566
4329	T.I.P. Rural Electric Coop	0.00215341
4333	Tri County Electric Coop	0.00126163
4352	Woodbury County REC	0.00120142

#### 2005 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA RATE CHANGES ONLY

GO // NATIONAL GAG

**DELIVERY** 

	CVV # NATINITYIDA I CVA S	
CO.#	MUNICIPAL GAS	TAX RATE
5215	Brighton Gas	0.00781622
5238	Coon Rapids Municipal Gas	0.00003328
5241	Corning Municipal Gas	0.00000118
5275	Lamoni Municipal Gas	0.00102521
5317	Rock Rapids Municipal Gas	0.00007851
5340	Wayland Municipal Gas	0.00342343
5344	West Bend Municipal Gas	0.00002710
CO.#	IOU's - GAS	DELIVERY TAX RATE
5204	Allerton Gas	0.01595730
5272	Interstate Power	0.01524196

# NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for May is 6.75%.

# INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants . . . . . Maximum 6.0% 74A.4 Special Assessments . . . . . Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the

#### NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective May 9, 2006, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### TIME DEPOSITS

7-31 days	Minimum 1.90%
32-89 days	Minimum 2.80%
90-179 days	Minimum 3.10%
180-364 days	Minimum 3.35%
One year to 397 days	Minimum 3.55%
More than 397 days	Minimum 4.90%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

#### **ARC 5124B**

### **UTILITIES DIVISION[199]**

#### **Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to 2005 Iowa Acts, chapter 32, section 2, and Iowa Code sections 17A.4, 476.1, 479.29, and 479B.20 (2005), the Utilities Board (Board) gives notice that on May 5, 2006, the Board issued an order in Docket No. RMU-06-2, In re: Amendments to 199 IAC Chapters 9 and 12; Interstate Natural Gas Pipelines, "Order Commencing Rule Making and Allowing for Additional Comments." The proposed revisions are based upon the repeal of the provisions in Iowa Code chapter 479A providing for regulation by the Board of the construction of interstate natural gas pipelines. The authority of the Board to act as an agent for the federal government was retained. The rescission of these statutory provisions was to comply with a decision by the United States Court of Appeals, Eighth Circuit, which held the State of Iowa and the Board were preempted by the federal Natural Gas Act from enforcing standards for construction of interstate pipelines. Northern Natural Gas Co. v. Munns, et al., 377 F.3d 817 (8th Cir. 2004). The order containing the background and support for this rule making can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before June 13, 2006, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference

to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement 2005 Iowa Acts, chapter 32, section 2, and Iowa Code sections 17A.4, 479.29, and 479B.20.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 199—9.1(476,479A,479B) as follows:

#### 199—9.1(479,479A,479B) General information.

**9.1(1)** Authority. The standards contained herein are prescribed by the Iowa utilities board pursuant to the authority granted to the board in Iowa Code sections 479.29, 479A.14, and 479B.20, relating to land restoration standards for pipelines. The requirements of this chapter do not apply to natural gas pipeline projects that were both constructed between June 1, 1999, and July 1, 2000, and that also received a certificate from the Federal Energy Regulatory Commission prior to June 1,1999. In addition, the *The* requirements of this chapter do not apply to land located within city boundaries, unless the land is used for agricultural purposes, *or to interstate natural gas pipelines*.

**9.1(2)** and **9.1(3)** No change.

ITEM 2. Amend rule 199—9.2(476,479A,479B) as follows:

199—9.2(479,479A,479B) Filing of land restoration plans. For intrastate natural gas and all hazardous liquid pipeline projects, land restoration plans shall be prepared and filed with the appropriate petition pursuant to Iowa Code section 479.29(9) or 479B.20(9) and this chapter for pipeline construction projects which require a pipeline permit from the Iowa utilities board, or for amendments to permits that propose pipeline construction or relocation. Plans for interstate natural gas pipeline construction projects requiring a certificate from the Federal Energy Regulatory Commission shall be prepared pursuant to Iowa Code section 479A.14(9) and this chapter.

- **9.2(1)** Content of plan. A land restoration plan shall include but not be limited to the following:
- a. A brief description of the purpose and nature of the pipeline construction project.
- b. A description of the sequence of events that will occur during pipeline construction.
- c. A description of how compliance with subrules 9.4(1) to 9.4(10) will be accomplished.
- d. The plan should include the point of contact for landowner inquiries or claims as provided for in rule 9.5(479,479A,479B).

**9.2(2)** No change.

**9.2**(3) Environmental impact statement, environmental assessments, *Mitigation plans* and agreements. Preparation of a separate land restoration plan for an interstate natural gas company project subject to Federal Energy Regulatory Commission authority may be waived by the board if the require-

#### UTILITIES DIVISION[199](cont'd)

ments of Iowa Code section 479A.14 are substantively satisfied in an environmental impact statement or environmental assessment, as defined in 18 CFR Section 380.2, and as accepted and modified by the Federal Energy Regulatory Commission certificate issued for the project. Preparation of a separate land restoration plan may be waived by the board if an agricultural impact mitigation or similar agreement is reached by the pipeline company and the appropriate agencies of the state of Iowa and the requirements of this chapter are substantively satisfied therein. If an environmental impact statement, environmental assessment, a mitigation plan or agreement is used to fully or partially meet the requirements of a land restoration plan, the statement or agreement shall be filed with the board and shall be considered to be, or to be part of, the land restoration plan for purposes of this chapter.

ITEM 3. Amend rule 199—9.3(479,479A,479B) as follows:

#### 199—9.3(479,479A,479B) Procedure for review of plan.

- **9.3(1)** An intrastate natural gas pipeline *company*, or a hazardous liquid pipeline *company*, that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B), or a petition for amendment to permit which proposes pipeline construction or relocation pursuant to 199 IAC 10.9(2) or 13.9(479B). Review of the land restoration plan will be coincident with the board's review of the application for permit, and objections to the proposed plan may be filed as part of the permit proceeding.
- 9.3(2) An interstate natural gas pipeline company that is required by rule 9.2(479,479A,479B) to file a land restoration plan shall file a proposed land restoration plan, or a petition requesting waiver of the plan filing requirement, with the board and the office of consumer advocate no later than 120 days prior to the date construction is scheduled to commence. If the pipeline company seeks waiver of the requirement that a plan be filed, and instead proposes board acceptance of a Federal Energy Regulatory Commission environmental impact statement or environmental assessment, or of an agricultural impact mitigation or similar agreement, the filing shall include a copy of that document. If the document is not final at the time filing is required, the most recent draft or a statement of the anticipated relevant contents shall be filed. If a Federal Energy Regulatory Commission environmental impact statement or environmental assessment information, final or draft, is filed, the filing shall identify the specific provisions which contain the subject matter required by Iowa Code section 479A.14(1).
- a. Any interested person may file an objection on or before the twentieth day after the date the plan is filed.
- b. Within 45 days of the filing of the plan or waiver request, the board will issue a decision on whether the filing demonstrates that the land restoration requirements of Iowa Code section 479A.14 and of these rules will be met. The board may impose terms and conditions if the filing is found to be incomplete or unsatisfactory. The board's action may also be conditional pending confirmation that the Federal Energy Regulatory Commission will not impose terms and conditions that are not consistent with the action taken by the board
- c. Interstate natural gas pipeline companies proposing pipeline construction requiring a Federal Energy Regulatory Commission certificate shall include a copy of 199—Chapter 9 in the notice mailed to affected landowners required by

- Federal Energy Regulatory Commission rule 18 CFR Part 157.6(d). Interstate natural gas pipeline companies proposing pipeline construction requiring a Federal Energy Regulatory Commission certificate shall also file the following with the board:
- (1) A copy of the landowner notification required by Federal Energy Regulatory Commission rule 18 CFR Part 157.6(d), filed coincident with the mailing to landowners.
- (2) Notice of any open public meeting with Iowa landowners scheduled by the company or by the Federal Energy Regulatory Commission.
- (3) Copies of letters from Iowa landowners concerning the project filed with the Federal Energy Regulatory Commission, within 20 days of such filing.
- (4) A copy of any agricultural impact mitigation or similar agreement reached with another state.
- 9.3(3) After the board has accepted the plan, but prior to construction, the pipeline company shall provide copies of the plan to all landowners of property that will be disturbed by the construction, and to the county board of supervisors and the county engineer of each affected county. However, if a waiver is granted pursuant to subrule 9.3(2), an interstate natural gas pipeline company need not provide landowners with second copies of environmental impact statements or environmental assessments if copies are provided to landowners by the Federal Energy Regulatory Commission.
- ITEM 4. Amend rule **199—9.4(479,479A,479B)** by striking "479A" from the parenthetical implementation.
- ITEM 5. Amend rule **199—9.5(479,479A,479B)** by striking "479A" from the parenthetical implementation.
- ITEM 6. Amend rule **199—9.6(479,479A,479B)** by striking "479A" from the parenthetical implementation.
- ITEM 7. Amend rule 199—9.7(479,479A,479B) as follows:
- **199—9.7(479,479A,479B)** Enforcement. A pipeline company shall fully cooperate with county inspectors in the performance of their duties under Iowa Code sections 479.29, 479A.14, and 479B.20, including giving proper notice of trenching, permanent tile repair, or backfilling. If the pipeline company or its contractor does not comply with the requirements of Iowa Code section 479.29, 479A.14, or 479B.20, with the land restoration plan, or with an independent agreement on land restoration or line location, the county board of supervisors may petition the utilities board for an order requiring corrective action to be taken or seeking imposition of civil penalties, or both. Upon receipt of a petition from the county board of supervisors, the board will schedule a hearing and such other procedures as appropriate. The county will be responsible for investigation and for prosecution of the case before the board.
- ITEM 8. Amend **199—Chapter 9**, implementation sentence, as follows:
- These rules are intended to implement Iowa Code sections 479.29, 479A.14, and 479B.20.
  - ITEM 9. Amend rule 199—12.1(479A) as follows:
- 199—12.1(479A) General Information Authority. The Iowa utilities board is authorized to act as an agent for the federal government pursuant to Iowa Code section 479A.1 in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state of Iowa.

#### UTILITIES DIVISION[199](cont'd)

- **12.1(1)** Authority. The standards relating to interstate natural gas pipelines and underground gas storage in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code section 479A.1.
- 12.1(2) Purpose. The purpose of this chapter is to establish standards regarding the transportation of natural gas to protect landowners and tenants from environmental or economic damages resulting from the construction, operation, or maintenance of pipelines.
- 12.1(3) Definitions. Terms not otherwise defined in this chapter shall be understood to have their usual meaning. Technical terms not defined shall be as defined by the U.S. Department of Transportation, Office of Pipeline Safety. For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

"Board" means the Iowa utilities board within the utilities division of the department of commerce.

"Construction" means the placement or replacement of pipe in the earth, excluding maintenance, repair, or emergency work affecting only short sections of a company's pipeline facilities.

"Pipeline" means any pipe, pipes, or pipelines and appurtenances thereto used for the transportation of natural gas in interstate commerce within or through this state.

"Pipeline company" means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines used for the interstate transportation of natural gas.

"Underground storage" means the storage of natural gas in a subsurface stratum or formation of the earth by a pipeline company engaged in interstate commerce.

- ITEM 10. Rescind and reserve rule **199—12.3(479A)**.
- ITEM 11. Rescind and reserve rule **199—12.4(479A)**.
- ITEM 12. Rescind and reserve rule 199—12.5(479A).
- ITEM 13. Rescind and reserve rule 199—12.7(479A).

## FILED EMERGENCY

#### **ARC 5122B**

### **IOWA FINANCE AUTHORITY[265]**

#### **Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17), the Iowa Finance Authority hereby amends Chapter 9, "Title Guaranty Division," Iowa Administrative Code.

The purpose of these amendments is to include participating abstractors in the issuance of title guaranty commitments and certificates and to shorten the period of time for which records must be searched in order to expedite and make the process of obtaining title guaranty easier for the lender and the Division. The amendment in rule 265—9.3(16) shortens from ten years to two years the period of time for which records must be searched in order to issue a title guaranty. The amendments in 9.6(1), 9.6(2)"a" and 9.6(2)"h""3" authorize participating abstractors to process title guaranty commitments and certificates for Division issuance, notify participating attorneys that participating abstractors may also issue title guaranty commitments and certificates for the Division, and prohibit participating attorneys from transferring unissued serialized forms to other participants. Additions are made to subrule 9.6(3) in paragraphs "f," "g," "h," and "i" regarding application for processing, training, use of Division forms, and file retention by participating abstractors for the issuance of title guaranty commitments and certificates. Amended rule 265—9.8(16) clarifies that an application for title guaranty may also be submitted to a participating attorney pursuant to Iowa Code section 16.91 or an approved participating abstractor pursuant to new paragraph "f" of subrule 9.6(3). Further, subrule 9.12(1) is amended to include a serialized forms audit of certificates for all participants.

Notice of Intended Action was published in the March 29, 2006, Iowa Administrative Bulletin as **ARC 5006B**. No public comment was received. The adopted amendments have been revised; the amendment to rule 265—9.3(16), definition of "title guaranty report of title," numbered paragraph "1," was not part of the amendments published under Notice of Intended Action. The paragraph has been amended to read as follows:

"1. The last deed of a sales transaction for the approximate full value determined from the county records by document stamps, purchase money mortgage or other recorded evidence (not including family transactions, contract vendee deeds, gift deeds, tax deeds, probates, foreclosures, and no value or partial value transfers) provided, however, no search may cover less than two years prior to the certification date;"

The Authority adopted these amendments on May 3, 2006.

Adoption of these amendments by emergency filing will confer a benefit on the public or some segment thereof by facilitating the issuance of title guaranty certificates by abstractors and shortening the period of time for which records must be searched, thereby promoting competition and speeding up the title guaranty certificate issuance process. Therefore, these amendments are adopted pursuant to Iowa Code section 17A.5(2)"b"(2). These amendments became effective upon filing with the Administrative Rules Coordinator on May 5, 2006.

These amendments are intended to implement Iowa Code sections 16.5(15), 16.5(17), 16.91(7) and 16.91(8).

These amendments became effective May 5, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [9.3, 9.6(1), 9.6(2)"a," 9.6(2)"h""3," 9.6(3)"f" to "i," 9.8, 9.12(1)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5006B**, IAB 3/29/06.

[Filed Emergency After Notice 5/5/06, effective 5/5/06] [Published 5/24/06]

[For replacement pages for IAC, see IAC Supplement 5/24/06.]

#### **ARC 5125B**

## SECRETARY OF STATE[721]

#### **Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby adopts amendments to Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

2006 Iowa Acts, House File 2050, section 3, grants county commissioners of elections the option to print the voter's declaration of eligibility on each page of the election register and to have voters sign the register in lieu of a separate form. The newly adopted law requires the state commissioner of elections to prescribe by rule an alternate method for the affected precinct election officials to provide the information contained in the eligibility declaration to observers who are legally present at the polling place.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5005B**. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 5004B**.

The agency received many helpful comments from county election commissioners and administrators. The following changes have been made:

Subrule 21.4(3) in Item 1 has been revised to provide another option for recording address changes. A commissioner may provide additional lines in the election register to add the names of voters who report changes of address on election day.

Rule 721—21.5(49) in Item 2 has been revised to include a requirement that the voter roster include the voter's party affiliation in primary elections. The document retention requirement in the original version of 721—21.5(49) has been deleted. Upon further study of the relevant statutes, the requirement was found to be inappropriate.

The agency finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on May 5, 2006, as they confer a benefit upon county commissioners of elections by providing them with guidance for implementing this new practice.

The Secretary of State adopted these amendments on May 5, 2006.

These amendments became effective May 5, 2006.

These amendments are intended to implement Iowa Code section 49.77 as amended by 2006 Iowa Acts, House File 2050, section 3.

The following amendments are adopted.

SECRETARY OF STATE[721](cont'd)

ITEM 1. Amend rule 721—21.4(49) by adding the following <u>new</u> subrule:

**21.4(3)** In precincts where the voter's declaration of eligibility is included in the election register pursuant to rule 721—21.5(49) and Iowa Code section 49.77 as amended by 2006 Iowa Acts, House File 2050, section 3, the commissioner shall provide to each precinct one of the two following methods for recording changes of address:

a. The voter shall be provided with a form that includes both the eligibility declaration and the voter registration form. The instructions for the voter registration form shall be printed in large type on a separate sheet of paper and shall be provided to each person who completes a voter registration form at the polls. In lieu of signing in the election register, the voter who is reporting a change of address shall complete the required fields on both the eligibility declaration form and the registration form.

b. The commissioner shall provide blank lines on the election register for the precinct election officials to record the voter's name, address, and, if provided, telephone number, and, in primary elections, political party affiliation. The voter shall also complete a voter registration form showing the voter's current address.

#### ITEM 2. Adopt the following **new** rule:

**721—21.5(49)** Eligibility declarations in the election register. To compensate for the absence of a separate declaration of eligibility form, the commissioner shall provide to each precinct a voter roster with space for each person who appears at the precinct to vote to print the following information: first and last name, address, and, at the voter's option, telephone number, and, in primary elections, political party affiliation.

The roster forms shall include the name and date of the election and the name of the precinct, and may be provided on paper that makes carbonless copies. If the multicopy form is used, the commissioner shall retain the original copy of the voter roster with other records of the election.

This rule is intended to implement Iowa Code section 49.77 as amended by 2006 Iowa Acts, House File 2050, section 3.

[Filed Emergency After Notice 5/5/06, effective 5/5/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5109B**

# SECRETARY OF STATE[721]

#### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby amends Chapter 22, "Voting Systems," Iowa Administrative Code.

The Help America Vote Act of 2002 requires election officials to provide to each polling place at least one voting device that is accessible to persons with disabilities, including persons with visual disabilities. To meet this requirement, all of Iowa's counties have purchased voting equipment that presents the ballot through headphones in an audible format. This audio ballot equipment will be used for the first time in the June 6, 2006, primary election. Subrule 22.434(2) requires all audio ballots to be recorded using a single voice for the entire ballot, including instructions to the voter, as well as the office titles, candidate names and public measures.

Some counties have reported that this requirement creates an unreasonable burden of labor and expense. Audio ballot instructions may be prerecorded to provide a uniform presentation for all voters. The portions of the ballot that differ from county to county may then be recorded separately and included with the previously recorded instructions and provided to each precinct. The requirement that the same voice be used for both recordings will increase the cost of audio ballot preparation significantly. Therefore, the Secretary of State has amended subrule 22.434(2) to permit the use of a different voice for the recorded instructions to the voter.

The agency finds, in compliance with Iowa Code section 17A.4(2), that notice and public participation are impracticable because this amendment will increase the efficiency of production of audio ballots and reduce the cost of these ballots for the primary election. County commissioners of elections are currently preparing these ballots, and this change is needed immediately.

The agency also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on May 3, 2006, as the amendment removes a significant burden from the county commissioners of elections as they prepare audio ballots for the primary election.

The Secretary of State adopted this amendment on May 3, 2006

This amendment is intended to implement Iowa Code chapter 52.

This amendment became effective May 3, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend subrule 22.434(2) as follows:

**22.434(2)** The same voice shall be used for the entire ballot, including instructions, to present office titles, candidate names and public measures on the ballot. Instructions to the voter may be recorded using a different voice.

[Filed Emergency 5/3/06, effective 5/3/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5117B**

# ADMINISTRATIVE SERVICES DEPARTMENT[11]

#### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code sections 8A.413 and 70A.1, the Department of Administrative Services hereby amends Chapter 63, "Leave," and Chapter 64, "Benefits," Iowa Administrative Code.

The purpose of these amendments is to change rule 11—63.3(8A) regarding sick leave accruals and to adopt new rule 11—64.16(8A), which pertains to the sick leave insurance program effective July 1, 2006, to comply with 2006 Iowa Acts, Senate File 2231.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the amendments apply to state employees retiring from state government.

These amendments will become effective July 1, 2006.

These amendments are intended to implement Iowa Code sections 70A.1 and 70A.23 as amended by 2006 Iowa Acts, Senate File 2231.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 11—63.3(8A), introductory paragraph, as follows:

11—63.3(8A) Sick leave with pay. Probationary and permanent full-time employees, except peace officer employees of the department of natural resources and the department of public safety, shall accrue sick leave at the rate of one and onehalf days (5.54 hours for the first and second biweekly pay periods, and 5.52 hours for the third biweekly pay period) for each complete month of full-time employment. as set forth in this paragraph. If the employee's accrued sick leave balance is 750 hours or less, the employee shall accrue one and onehalf days of sick leave per month, which is 5.538462 hours per pay period. If the employee's accrued sick leave balance is 1500 hours or less but more than 750 hours, the employee shall accrue one day of sick leave per month, which is 3.692308 hours per pay period. If the employee's accrued sick leave balance is more than 1500 hours, the employee shall accrue one-half day of sick leave per month, which is 1.846154 hours per pay period. Peace officer employees of the department of natural resources and department of public safety shall accrue sick leave at the same rate as the rate provided under the State Police Officers Council collective bargaining agreement. The use of sick leave with pay shall be subject to the following conditions:

ITEM 2. Amend subrule 63.3(4) as follows:

**63.3(4)** There is no limit on the accumulation of sick leave. An employee who has accrued at least 240 hours of sick leave may elect to accrue additional vacation in lieu of the normal sick leave accrual. The conversion shall be on the basis of one hour of vacation for three hours of sick leave, for each full month when sick leave is not used during that month. An employee who has made an election to convert sick leave to vacation will be credited with four hours of vacation for each full month when sick leave is not used during that month. A conversion shall not be made if the ac-

crued sick leave is less than 240 hours in the pay period in which the conversion is *would be* made. The conversion of sick leave shall be prorated for employees who are normally scheduled to work less than full-time (40 hours per week). An employee's maximum vacation accrual may be increased under this subrule up to 96 hours.

ITEM 3. Amend subrule 63.3(10) as follows:

63.3(10) All accrued sick leave shall be cancelled can*celed* on the date of separation, and no employee shall be reimbursed for accrued sick leave unused at the time of separation except as provided for in Iowa Code section 70A.23 as amended by 2006 Iowa Acts, Senate File 2231, or the applicable collective bargaining agreement. However, if an employee is laid off and is reemployed by any state agency within two years following the date of layoff, or an employee who was separated due to qualification for long-term disability benefits or an on-the-job injury or illness and is reemployed by any state agency within two years following the date of medical release, the employee's unused accrued sick leave shall be restored, except to the extent that the sick leave hours have been credited to a sick leave bank pursuant to Iowa Code section 70A.23 as amended by 2006 Iowa Acts, Senate File 2231, and the provisions of 11 IAC 64.16(8A). Employees participating in the sick leave insurance program who return to permanent employment will not have prior sick leave amounts restored.

ITEM 4. Adopt the following **new** rule 11—64.16(8A):

11—64.16(8A) Sick leave insurance program. The director is authorized to establish a sick leave insurance program (program) for employees not covered by a collective bargaining agreement. The program shall allow eligible employees to convert a portion of their sick leave balance at retirement into a sick leave bank with which the state will pay the state's share of retiree health insurance. Employees of the department of natural resources or department of public safety who are classified as peace officers and are not covered by a collective bargaining agreement shall receive benefits at retirement consistent with the provisions of the negotiated collective bargaining agreement with the State Police Officers Council. The benefits for sick leave banks earned by all department of public safety peace officer employees shall be administered by the department of public safety.

**64.16(1)** To be eligible to participate in the program, the employee must be employed on or after July 1, 2006, and must retire under a retirement system in the state maintained in whole or in part by public contributions or payment prior to reaching Medicare eligibility.

- a. Participation in the program ceases when any one of the following occurs:
  - (1) The employee's sick leave balance is exhausted;
  - (2) The employee reaches Medicare eligibility;
- (3) The employee terminates participation in the state's group insurance program;
- (4) The employee returns to permanent employment with the state;
  - (5) The employee fails to pay any required amount; or
  - (6) The employee dies.
- b. A deceased employee's sick leave bank is not transferable to another person, including a spouse.

**64.16(2)** Upon a participating employee's termination of employment, the employee's sick leave hours are multiplied by the employee's regular hourly wage. The employee receives up to \$2,000 of this amount on the employee's final paycheck. The remainder is multiplied by a conversion factor, and that amount is placed into the employee's sick leave

#### ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

bank. The conversion factors are as follows: If an employee has up to 750 hours, the rate is 60 percent; if an employee has over 750 hours and up to 1,500 hours, the rate is 80 percent; and if the employee has more than 1,500 hours, the rate is 100 percent. The employee's sick leave balance before payment of up to \$2,000 is used to determine the number of hours an employee has for conversion purposes. The amounts placed into the employee's sick leave bank have no cash value, other than for purposes of paying the state's share of retiree health insurance premiums under this program. The value of sick leave hours for peace officer employees of the department of natural resources and the department of public safety shall be calculated in the same manner as for those employees covered by the collective bargaining agreement with the State Police Officers Council.

**64.16(3)** An employee who retires and participates in the program and becomes reemployed by the state in a permanent position is no longer eligible for the program and shall not be eligible for the program upon successive termination of employment.

**64.16(4)** To participate in the program, an employee must complete a sick leave insurance program enrollment form upon retirement. Upon commencement of participation in the program, the employee may choose to continue the employee's current health insurance plan selection or may choose any other state group health plan whose total cost is the same or lower than the total cost of the current plan selection. Except for employees eligible for benefits negotiated consistent with the collective bargaining agreement negotiated with the State Police Officers Council, employees may not apply the sick leave balance to a private insurance plan.

[Filed Without Notice 5/5/06, effective 7/1/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5112B**

## BANKING DIVISION[187]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 535B.14, the Banking Division of the Commerce Department hereby adopts Chapter 18, "Mortgage Bankers and Mortgage Brokers," Iowa Administrative Code.

The rules are designed to implement 2005 Iowa Acts, chapter 83, and 2006 Iowa Acts, Senate File 2353, both effective July 1, 2006, which require natural persons acting as mortgage bankers and mortgage brokers to register with the Division and to complete continuing education requirements each year. The rules address the processes and requirements for applying for and renewing mortgage banker or mortgage broker individual registrations. The rules also address continuing education requirements for individual registrants. The rules also address the application and renewal requirements for mortgage banker and mortgage broker licenses, establish administrative fees associated with licenses and registrations administered pursuant to Iowa Code chapter 535B, and establish record-keeping and reporting requirements for licensees. Finally, the rules describe the complaint and disciplinary process that applies to mortgage banker and mortgage broker licensees and individual registrants.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5011B**. A public hearing was held on Tuesday, April 18, 2006, at 10 a.m. in the Banking Division Conference Room at 200 East Grand Avenue, Des Moines. The Division received oral comments on the rules at the April 18 hearing and also received written comments on the rules. The Division also received less formal feedback on the rules in the form of inperson and telephone communications.

As a result of the public comments received, the adopted rules contain a variety of changes from the proposed rules published under Notice of Intended Action. In addition, Iowa Code chapter 535B was further amended by 2006 Iowa Acts, Senate File 2353, after the Notice of Intended Action was published. As a result, the adopted rules contain some changes from the proposed rules in order to be consistent with the changes in the statute. The changes, however, are in character with the original scheme and are a logical outgrowth of the Notice of Intended Action and the public comments received in response to the Notice of Intended Action.

The changes from the Notice are as follows: The definition of "criminal background check" was amended to include a state criminal background check with the national criminal history check; conviction of a crime involving moral turpitude was eliminated as a reason to deny an application; provisions to issue a temporary individual registration were added due to anticipated delays in obtaining national criminal history check results from the FBI; the subrule regarding continuing education was amended to reflect that the 12-hour requirement is applicable only to a person who is an individual registrant on December 31 of a license year; continuing education providers now have 30 days from completion of the course to provide certificates of completion to individual registrants; descriptions of nonqualifying courses for continuing education were deleted; a 2-hour course of instruction is now permitted whereas previously the minimum was 3 hours; the examination requirement for live classroom courses was deleted; the required test score was reduced from 90 percent to 70 percent for the applicant to obtain "satisfactory completion" of distance education courses and paper home-study courses; the maximum completion time for distance education courses and for paper home-study courses was extended from six months to eight months; the loan file was removed as a required record for mortgage brokers; the subrule defining "application log" was amended to provide that, when a licensee has obtained an applicant's name and social security number, this information is considered an application for purposes of record retention under the subrule; the complaint and investigation subrule was amended to reflect changes in the statute permitting examination of any licensee regardless of amount of net worth by deleting references to net worth; the subrule regarding disciplinary action was amended to reflect changes pursuant to 2006 Iowa Acts, Senate File 2353, by deleting the subrules addressing disciplinary sanctions that may be imposed. Other nonsubstantive, technical changes have also been made to the rules published under Notice of Intended Action.

The Superintendent of Banking adopted these rules on May 3, 2006.

These rules will become effective on July 1, 2006.

These rules are intended to implement Iowa Code sections 17A.3 and 535B.14, 2005 Iowa Acts, chapter 83, and 2006 Iowa Acts, Senate File 2353.

The following **new** chapter is adopted.

#### CHAPTER 18

#### MORTGAGE BANKERS AND MORTGAGE BROKERS

**187—18.1(17A,535B) Definitions.** For the purposes of this chapter, the definitions in Iowa Code chapter 535B, 2005 Iowa Acts, chapter 83, and 2006 Iowa Acts, Senate File 2353, shall apply. In addition, unless the context otherwise requires:

<sup>2</sup> "Criminal background check" means a state criminal background check and a national criminal history check through the Federal Bureau of Investigation.

"Individual registrant" means a natural person who is registered with the administrator in accordance with the provisions of 2005 Iowa Acts, chapter 83, section 6.

"Individual registration" means a written or electronic registration submitted by a natural person to the administrator to act as a mortgage banker or mortgage broker in this state in accordance with the provisions of 2005 Iowa Acts, chapter 83, section 6. To be considered active, an individual registrant must be an employee of or an exclusive agent of a licensee.

"License application" means a written or electronic application submitted to the administrator for a license to operate as a mortgage banker or mortgage broker in accordance with the provisions of Iowa Code section 535B.4.

"Licensee" means a person who has a license to operate as a mortgage banker or mortgage broker in accordance with the provisions of Iowa Code section 535B.4.

"Makes at least four mortgage loans," as used in Iowa Code section 535B.1(4)"a," means the person is listed on loan documents as the lender for at least four mortgage loans.

"Mortgage application" means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. A completed application has all the information that the creditor regularly obtains and considers in evaluating an application for the amount and type of credit requested.

"Services a loan" or "servicing a loan" means undertaking the direct collection of payments on a loan from the borrower or the right to undertake direct collection of payments on a loan from the borrower.

#### 187—18.2(17A,535B) Application for license.

**18.2(1)** Application for a license to operate as a mortgage banker or mortgage broker shall be on forms provided by the administrator, and all requested information shall be provided on or with the application form. The administrator may consider an application or registration withdrawn if it does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

**18.2(2)** The license application shall be accompanied by a fee of \$500. The fee is not subject to refund.

**18.2(3)** If any information changes after the filing of the initial application, the applicant shall provide updated information to the administrator in writing within 10 calendar days of the change. Failure to provide updated information when a change has occurred may result in denial of the application.

**18.2(4)** The administrator shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5. A person shall not be eligible for licensing unless all individual registrants who are employed by, under contract with, or exclusive agents of the person have successfully completed the registration and background checks required by 2005 Iowa Acts, chapter 83, section 6.

**18.2(5)** Licenses expire on the next June 30 after issuance. However, licenses granted on or after April 1 but before July 1 will not expire until June 30 of the following year. For example, a license granted on April 17, 2007, would not expire until June 30, 2008.

#### 187—18.3(17A,535B) Renewal of license.

**18.3(1)** To remain authorized to act as a mortgage banker or mortgage broker, a licensee must renew a license before the expiration date of the license. A licensee who fails to renew a license before expiration is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.

**18.3(2)** Application to renew a license shall be submitted to the administrator before June 1 of the year of expiration on forms provided by the administrator. All requested information shall be provided to the administrator on or with the application form. Applications for renewal of a license to transact business solely as a mortgage broker must be accompanied by a fee of \$200. Applications for renewal of a license to transact business as a mortgage banker must be accompanied by a fee of \$400. The administrator may assess late fees of up to \$10 per day for applications submitted after June 1.

**18.3(3)** Application forms for renewal of a license may be obtained from the administrator's office or will be available on the administrator's Web site. Licensees may renew electronically or by submitting a written application. While the administrator generally mails renewal application forms or reminders to licensees before May 1 preceding license expiration, the failure of the administrator to mail an application form or the failure of a licensee to receive an application form shall not excuse the licensee from the requirement to timely renew

**18.3(4)** The administrator shall grant an application to renew a license if:

- a. The administrator receives the application by June 1, accompanied by the appropriate renewal fee, or the administrator receives the application after June 1 but before July 1 and it is accompanied by the appropriate renewal fee and the appropriate late fee;
- b. The application is fully completed with all necessary information; and
- c. The application does not reveal grounds to deny a license.

**18.3(5)** A renewal application received by the administrator after June 30 may, at the discretion of the administrator, be rejected for processing or may be treated as a new application for a license. A licensee who fails to renew a license before the expiration date is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.

# 187—18.4(17A,535B) Individual registration requirements.

**18.4(1)** A natural person who applies for individual registration pursuant to 2005 Iowa Acts, chapter 83, section 6, to act as a mortgage banker or mortgage broker in this state shall apply with the administrator on forms provided by the administrator. The administrator may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

**18.4(2)** The fee for an initial individual registration is \$50, plus the actual cost of obtaining the criminal background check. The fee is not subject to refund.

**18.4(3)** An applicant must submit to a criminal background check.

- **18.4(4)** The administrator may deny an application for individual registration for any of the following reasons:
- a. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the applicant's authorization to act as a mortgage banker or mortgage broker or has denied, suspended, revoked or refused to renew a similar license or registration under the other state's or jurisdiction's law. An agreement made between a person and another state or jurisdiction not to operate as a mortgage banker or mortgage broker in that state shall be considered a denial of that person's authorization to act as a mortgage banker or mortgage broker in that state.
- b. The applicant has been barred, removed, or prohibited from serving in any capacity in a financial institution by any state or federal regulatory agency including but not limited to the Office of Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, or the U.S. Department of Housing and Urban Development.
- c. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, in a court of competent jurisdiction in this state or in any other state, territory or district of the United States, or in any foreign jurisdiction. For the purposes of this paragraph, "conviction" includes a guilty plea, deferred judgment, deferred sentence, or other similar finding of guilt by a court of competent jurisdiction.
- d. The applicant has had a professional license of any kind revoked in any state or jurisdiction. An agreement to surrender a license and not to operate in an occupation in which a professional license is required shall be considered a revocation for the purposes of this rule.
  - e. The applicant is under 18 years of age.
- f. The applicant has failed to pay child support and is identified in a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J.
- g. The applicant has failed to pay student loans and is identified in a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261.
- **18.4(5)** As required by 2005 Iowa Acts, chapter 83, section 6, an individual registrant must be employed by, under contract with, or an exclusive agent of a licensee under Iowa Code section 535B.4. However, the administrator may consider an application for individual registration from a person not currently employed by, under contract with, or an exclusive agent of a licensee. If the administrator determines that the applicant is otherwise eligible for individual registration, the administrator shall approve the registration in "unattached" status.
- **18.4(6)** An individual registration expires on the next June 30 after approval. However, individual registrations approved on or after April 1 but before July 1 will not expire until June 30 of the following year. For example, an application for individual registration approved on April 17, 2007, would not expire until June 30, 2008.
- **18.4(7)** The administrator may issue a temporary individual registration for a period not to exceed 180 days to an applicant who has submitted to a national criminal history check as required by 2005 Iowa Acts, chapter 83, section 6, as amended by 2006 Iowa Acts, Senate File 2353, pending the results of the national criminal history check. The temporary individual registration issued pursuant to this subrule is subject to the expiration and renewal requirements of subrule

18.4(6) and rule 187—18.5(17A,535B). If compliant with the aforementioned expiration and renewal requirements, the temporary individual registration issued pursuant to this subrule is valid until such time as the individual registration is issued, the temporary individual registration is renewed, or the temporary individual registration expires or is revoked. The administrator may revoke the temporary individual registration at any time prior to issuing an individual registration if the results of the national criminal history check reveal information that would be grounds for the administrator to deny an application for an individual registration or if an applicant fails to resubmit to the national criminal history check within 30 days of notice from the administrator to do so.

**18.4(8)** A provision of 2005 Iowa Acts, chapter 83, section 6, requires an individual registrant to submit to a state criminal background check before being registered for the first time. 2006 Iowa Acts, Senate File 2353, section 17, amends that provision to require that an individual registrant submit to a national criminal history check through the Federal Bureau of Investigation prior to being registered. 2005 Iowa Acts, chapter 83, section 6, as amended by 2006 Iowa Acts, Senate File 2353, is effective July 1, 2006. As a result of the timing of the effective date of the Act, the forms necessary to obtain a national criminal history check through the Federal Bureau of Investigation were not available to some applicants for individual registrations at the time the applicants initially applied for individual registrations. To address these timing considerations, the administrator may issue a temporary individual registration for a period ending on June 30, 2007, to an applicant who filed an application with the administrator before the forms necessary to obtain a national criminal history check through the Federal Bureau of Investigation were available, provided that the applicant submitted to a state criminal background check. An applicant who receives a temporary individual registration pursuant to this subrule must submit to a national criminal history check as soon as the forms become available. The administrator may revoke a temporary individual registration issued under this subrule at any time prior to issuing an individual registration if the applicant fails to submit to the national criminal history check within 30 days of notice from the administrator to do so or the results of the national criminal history check reveal information that would be grounds for the administrator to deny an application for an individual regis-

#### 187—18.5(17A,535B) Renewal of individual registration.

- **18.5(1)** The individual registration must be renewed before expiration. An individual who fails to renew an individual registration before expiration is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.
- **18.5(2)** An individual registration shall be renewed on forms provided by the administrator, and all requested information shall be provided on or with the registration form. An individual registration renewal must be filed with the administrator before June 1 of the year of expiration and must be accompanied by a fee of \$50. The administrator may assess a late fee of \$5 per day, not to exceed \$100, for an individual registration renewal accepted for processing after June 1.
- **18.5(3)** Forms for renewal of an individual registration may be obtained from the administrator's office or will be available on the administrator's Web site. Individual registrants may renew electronically or by submitting a written application. While the administrator generally mails renewal application forms or reminders to individual registrants before May 1 preceding expiration of individual registration,

the failure of the administrator to mail an individual registration renewal form or the failure of an individual registrant to receive an individual registration renewal form shall not excuse the individual registrant from the requirement to timely renew.

**18.5(4)** The administrator may reject an individual registration renewal if the registration renewal is not complete or all required fees, including late fees, are not remitted.

**18.5(5)** The administrator shall grant an application to renew an individual registration if:

- a. The administrator receives the registration renewal by June 1, accompanied by the \$50 renewal fee, or the administrator receives the registration renewal after June 1 but before July 1 and it is accompanied by the \$50 renewal fee and the appropriate late fee;
- b. The registration renewal is fully completed with all necessary information, including proper disclosure of completion of required continuing education; and
- c. The registration renewal does not reveal grounds to deny an individual registration.

**18.5(6)** A registration renewal received by the administrator after June 30 may, at the discretion of the administrator, be rejected for processing or may be treated as a new individual registration. An individual registrant who fails to renew before the expiration date is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date unless specific written permission is provided by the administrator.

# 187—18.6(17A,535B) Unattached status of individual registrant.

**18.6(1)** An individual registration shall be considered to be in unattached status at any time an individual registrant is not employed by, under contract with, or an exclusive agent of a licensee.

**18.6(2)** Unattached status commences when the licensee or the individual registrant notifies the administrator in writing that an individual registrant ceases to be employed by, under contract with, or an exclusive agent of that licensee and will continue until such time that the administrator receives written verification from a licensee that the individual registrant is currently employed by, under contract with, or is an exclusive agent of the licensee.

**18.6(3)** An individual registrant in unattached status must comply with all the requirements applicable to individual registrants, such as timely submission of the individual registration renewal form and completion of the continuing education requirements.

**18.6(4)** An individual registrant in unattached status shall not be authorized to act as a mortgage banker or mortgage broker in Iowa unless the individual registrant is employed by, under contract with, or an exclusive agent of persons listed as exemptions pursuant to Iowa Code section 535B.2 as amended by 2005 Iowa Acts, chapter 83, section 4.

**187—18.7(17A,535B)** Notice of significant events. A licensee or individual registrant shall notify the administrator immediately and in writing within three business days of the occurrence of any of the following events.

**18.7(1)** The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection.

**18.7(2)** A prosecuting authority files criminal charges against the licensee, the individual registrant or any of a licensee's officers, directors, principal stockholders, or affiliates.

**18.7(3)** Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures,

or other formal or informal regulatory action against the licensee, individual registrant, or any of the licensee's officers, directors, principal stockholders, or affiliates.

**18.7(4)** The attorney general of Iowa or enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce consumer protection laws against the licensee, individual registrant, or any of the licensee's officers, directors, principal stockholders, or affiliates.

**18.7(5)** The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Government National Mortgage Association suspends or terminates the licensee's or individual registrant's status as an approved seller or seller/servicer.

# 187—18.8(17A,535B) Changes in the licensee's business; fees.

**18.8(1)** No licensee or individual registrant shall conduct the residential mortgage lending activities authorized in Iowa Code chapter 535B as amended by 2006 Iowa Acts, Senate File 2353, section 16, under any name other than that stated on the license or individual registration certificate.

**18.8(2)** A licensee shall notify the administrator of a change of name of the business in writing within ten days of the change. A filing fee of \$25 shall accompany a notice of change of name, in addition to all other information required by the administrator.

**18.8(3)** An individual registrant shall notify the administrator in writing within ten days of a change in the individual registrant's name.

**18.8(4)** A licensee shall notify the administrator in writing of a change in the location, the addition, or the closing of any office prior to the change, addition, or closure.

**18.8(5)** A licensee shall maintain on file with the administrator a list of all individual registrants who are employed by, under contract with, or exclusive agents of the licensee.

**18.8(6)** When an individual registrant ceases to be employed by, under contract with, or an exclusive agent of a licensee, the licensee shall notify the administrator in writing within five business days. The notification shall include the reasons for the termination of the individual registrant's employment, contract, or agency.

**18.8(7)** A licensee shall notify the administrator in writing of the addition of any individual registrant, owner, officer, partner, or director within five business days of addition.

**18.8(8)** Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee or individual registrant to disciplinary action.

#### 187—18.9(17A,535B) Administrative fees.

**18.9(1)** Examination and investigation late fees. A licensee shall pay the administrator the total charge for an examination or investigation within 30 days after the administrator has requested payment. If a licensee fails to pay an examination or investigation fee by the due date, the administrator may assess an additional penalty of 5 percent of the amount of the fee for each day after the due date.

**18.9(2)** Late fees for failure to respond. In the process of administrating this chapter, the administrator may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the administrator may assess a penalty of \$10 per day after the initial 30 days.

18.9(3) License determination letters. A person who requests written confirmation from the administrator that a license is not required shall submit a fee of \$100 with the written request.

**18.9(4)** Required financial statements. A licensee who fails to file with the administrator the financial statements re-

quired under Iowa Code section 535B.10(1) within 120 days after the end of a licensee's fiscal year shall be subject to a late penalty of \$100 for each day the financial statements are delinquent, but in no event shall the aggregate of late penalties exceed \$5,000. The administrator may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

**18.9(5)** Duplicate license. The licensee shall pay a fee of \$25 for each duplicate of an original license issued.

#### **187—18.10(17A,535B)** Continuing education.

**18.10(1)** The continuing education year shall begin on the first day of May each year and shall end on April 30 the following year. Each person who is an individual registrant on December 31 shall complete at least 12 hours of continuing education from May 1 (preceding December 31) to April 30 (following December 31). For example, a person who is an individual registrant on December 31, 2006, shall complete at least 12 hours of continuing education from May 1, 2006, to April 30, 2007.

**18.10(2)** Each continuing education course shall first be approved by the administrator before the administrator grants continuing education credit.

**18.10(3)** Continuing education courses shall focus on issues of the mortgage business or related industry topics.

**18.10(4)** One continuing education hour shall consist of at least 50 minutes of approved instruction. Time used to test a student is also considered time of instruction.

**18.10(5)** The entity providing the continuing education course shall submit to the administrator evidence of satisfactory completion of approved continuing education. This evidence shall include the name, home address, and individual registration number of each individual registrant completing the course.

**18.10(6)** Continuing education hours shall not be carried forward from one year to the next.

**18.10(7)** Continuing education hours will not be approved for any individual registrant for the same course in consecutive renewal periods.

**18.10(8)** Each individual registrant shall ultimately be responsible for maintaining verification records in the form of completion certificates or other documents providing evidence of satisfactory completion of approved continuing education courses. Each individual registrant shall provide with that person's individual registration renewal a report in the format provided by the administrator of the courses completed to fulfill the continuing education requirement. The individual registrant shall retain documentation for a period of three years after the effective date of the registration renewal. The administrator may conduct random audits to verify the continuing education submitted by individual registrants.

**18.10(9)** Failure to provide requested evidence of completion of claimed continuing education within 30 days of the written notice from the administrator shall result in the individual registrant's being placed on lapsed status. Prior to the administrator's activating an individual registration that has been placed on lapsed status pursuant to this rule, the individual registrant must submit to the administrator satisfactory evidence that all required continuing education has been completed.

18.10(10) Each individual registrant who fails to renew shall complete all delinquent continuing education before being approved as an individual registrant, unless the new individual registration is issued after one year from the lapse of the prior registration.

**18.10(11)** The requirement for completion of continuing education may be waived, or the deadline for completion may be extended, by the administrator under either of the following circumstances:

a. The individual registrant is called to active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in any continuing education year.

b. The individual registrant experiences physical disability, illness, or any extenuating circumstances that prevent successful completion of continuing education.

# 187—18.11(17A,535B) Administrative requirements for courses.

**18.11(1)** All courses of continuing education must receive advance approval of the administrator.

**18.11(2)** Applications to provide continuing education must be submitted on forms provided by the administrator with a \$100 fee. Courses will be approved for 24-month periods, including the month of approval. Approval must be obtained for each course.

**18.11(3)** Each application for approval shall designate an individual as the coordinator who shall be the primary contact with the administrator. The coordinator is responsible for complying with the administrator's rules relating to providers and for submitting reports and information as may be required by the administrator.

**18.11(4)** Providers must submit the course outline and all required forms to the administrator.

**18.11(5)** Potential participants in approved courses shall be clearly informed of the hours to be credited, policies concerning registration, payment of fees, refunds, and attendance requirements.

**18.11(6)** No part of any approved course shall be used to advertise or solicit orally or in writing any product or service.

**18.11(7)** The provider must show that procedures are in place to ensure that the student who completes an approved course is the student who enrolled in the course.

**18.11(8)** The administrator may at any time reevaluate an approved course and may withdraw approval after a 30-day notice to the provider.

**18.11(9)** No approved provider shall provide any information to the public or to prospective students that is misleading in nature.

**18.11(10)** Each approved provider shall establish and maintain for each individual student a complete, accurate, and detailed record of instruction undertaken and satisfactorily completed in the areas of study prescribed by these rules. The records shall be maintained for a period of not less than five years. The administrator shall assign a number to each approved provider and shall assign a number to each approved course. The provider shall include these reference numbers in correspondence with the administrator and must include these numbers on certificates of attendance issued to course participants.

**18.11(11)** Each provider of an approved course shall provide an individual certificate of completion to each individual registrant within 30 days of satisfactory completion of the course. The certificate shall be no larger than  $8\frac{1}{2}$ " × 11" and shall contain the following information:

- a. Provider name and number;
- b. Program, course or activity name and number;
- c. Name, home address, and individual registration number of the individual registrant;
  - d. Date program, course or activity completed;
  - e. Number of approved credit hours; and
- f. Signature of coordinator or other person authorized by the administrator.

- **187—18.12(17A,535B)** Standards for approval of courses of instruction. The administrator may approve live classroom instruction, distance education programs, and paper home-study courses, subject to the following conditions:
- 1. The course pertains to mortgage topics that are integrally related to the mortgage industry; and
- 2. The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and
  - 3. The course qualifies for at least two credit hours; and
- 4. The course has an appropriate means of written evaluation by the participants. Evaluations shall include but not be limited to relevance of the material, effectiveness of the presentation, and course content; and
- 5. The course meets the more specific standards according to the presentation method detailed in rules 187—18.13(17A,535B) through 187—18.15(17A,535B).
- **187—18.13(17A,535B)** Standards for approval of live classroom courses. The administrator may approve live classroom courses, subject to the following requirements:
- **18.13(1)** The course application shall be accompanied by a comprehensive course outline that may include:
  - a. Description of course.
  - b. Purpose of course.
  - c. Level of difficulty.
- d. Detailed learning objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the course.
- e. Description of the instructional methods utilized to accomplish the learning objectives.
  - f. Copies of all instructor and student course materials.
- g. Description of the plan in place to periodically review course material with regard to changing federal and state statutes.
- **18.13(2)** The provider must agree to provide a certificate of completion only to individual registrants who have satisfactorily completed the course. "Satisfactorily completed the course" means the individual was present for at least 80 percent of instruction time.
- **187—18.14(17A,535B)** Standards for approval of distance education courses. The administrator may approve distance education courses, subject to the following requirements:
- **18.14(1)** The provider's purpose or mission statement must be available to the public.
- **18.14(2)** The course outline must include clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.
- **18.14(3)** The course content must be accurate and up-to-date. The provider must describe the plan in place to periodically review course material with regard to changing federal and state statutes.
- **18.14(4)** The course must be designed to ensure that student progress is evaluated at appropriate intervals and that mastery of the material is achieved before a student can progress through the course material.
- **18.14(5)** The provider must show that qualified individuals are involved in the design of the course.
- **18.14(6)** The provider must list individuals who provide technical support to students and state the specific times when support is available.
- 18.14(7) A manual must be provided to each registered student. The manual shall include, but not be limited to, fac-

- ulty contact information, student assignments and course requirements, broadcast schedules, testing information, passing scores, resource information, fee schedule, and return policy.
- **18.14(8)** The provider must retain a statement signed by the student that affirms that the student completed the required work and examinations.
- **18.14(9)** The provider must state in the course material that the information presented in the course should not be used as a substitute for competent legal advice.
- **18.14(10)** Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.
- **18.14(11)** All distance education courses must be completed within eight months of the date of acquisition or course start date.
- **18.14(12)** The provider must agree to provide a certificate of completion only to individual registrants who have satisfactorily completed the course. "Satisfactorily completed the course" means the individual completed the required work and scored 70 percent or better cumulatively for all examinations covering the coursework.
- **187—18.15(17A,535B)** Standards for approval of paper home-study courses. The administrator may approve paper home-study courses, subject to the following requirements:
- **18.15(1)** Courses must be arranged in chapter format and include a table of contents.
- **18.15(2)** Overview statements that preview the content of the chapter must be included for each chapter.
- **18.15(3)** Courses must be designed to ensure that student progress is evaluated at appropriate intervals. The assessment process shall measure at regular intervals throughout each module of the course what each student has learned and not learned. The student must complete and return quizzes to the provider to receive credit for the course.
- **18.15(4)** Final examinations must contain a minimum of 10 questions per credit hour; for example, 20 questions for a two-hour course, 30 questions for a three-hour course, and 60 questions for a six-hour course.
- **18.15(5)** A passing score of 70 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.
- **18.15(6)** An individual registrant has eight months from the date of purchase to complete all quizzes and assignments and to pass the final examination.
- **18.15**(7) The provider must include information that clearly informs the student of the course completion deadline, passing score required, quiz completion requirements, and any other relevant information regarding the course.
- **18.15(8)** The provider shall state in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.
- **18.15(9)** The provider shall retain a statement signed by the student that affirms that the student completed the required work and examinations.
- **18.15(10)** The provider must be available to answer student questions and provide assistance as necessary during normal business hours.
- **18.15(11)** Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.
- **18.15(12)** The provider must agree to provide a certificate of completion only to individual registrants who have satisfactorily completed the course. "Satisfactorily completed the course" means the individual completed the

required work and scored 70 percent or better on the final examination.

#### 187—18.16(17A,535B) Licensee records.

- **18.16(1)** General record requirements. A licensee must keep records that allow the administrator to determine the licensee's compliance with relevant statutes and regulations.
- a. The licensee may keep the records as a hard copy or in an electronic equivalent.
- b. The licensee shall keep records for at least 25 months from the date of the final transaction with the borrower.
- c. The licensee shall maintain all books and records in good order and shall produce books and records for the administrator upon request. Failure to produce such books and records within 30 days of the administrator's request may be grounds for disciplinary action against the licensee.

#### **18.16(2)** Required records.

- a. A mortgage broker shall keep an index, application log, and application files.
- b. A mortgage banker shall keep an index, application log, application files, loan register, and loan files. If the mortgage banker also services loans, the mortgage banker must also keep account ledgers.
- c. A mortgage banker who only services loans needs to keep only an index, a loan register, loan files, and account ledgers.
- **18.16(3)** Index. All records shall be accessible by the borrower's name (including the name of any endorser, comaker, or surety who is indebted to the lender) and account number.
- **18.16(4)** Application log. The application log is a chronological list of applications received. The application log shall include the name of the applicant, date the application was completed, the loan originator, notes for action taken on applications (such as "approved," "denied," or "withdrawn"), and date of action. For approved applications, the application log shall show the date the loan closed and the name of the lender. For purposes of these rules, information from an applicant becomes an application when the licensee obtains the name and social security number of the applicant.
- **18.16(5)** Loan register. The loan register shall include the following information for every loan that is made: the date of the transaction, name of the borrower, the loan originator, name of the lender, and amount financed. The register shall be kept chronologically in the order the loans closed. The loan register may be combined with the application log.
- **18.16(6)** Application file. A licensee shall maintain an application file for each application received. The application file shall contain copies of the application and any required disclosures. A copy of any adverse action taken on the application shall also be placed in the application file.
- 18.16(7) Loan file. A licensee shall maintain a loan file for each loan made. The loan file consists of the application file and documents from the loan closing. These documents include: note, mortgage, all truth-in-lending disclosures, and all real estate settlement procedures Act disclosures. The loan file shall include documentation of how the loan proceeds were distributed.
- **18.16(8)** Account ledger. A licensee shall maintain an account ledger for each loan that is serviced.
- a. The account ledger shall include the following information: the name and address of the borrower, loan number, loan date, payment terms, maturity date, principal amount of loan, amount financed, total of payments, property listed as security, and distribution of the loan proceeds.
- b. The account ledger shall include a transaction history. Payments shall be posted to the account ledger effective the

- date payments were received. Payment entries will show the date payment was received, the total amount of the payment, and a description of how the payment was applied to the borrower's account (amount applied to principal, interest, escrow, late fees, or additional written description). Other transactions shall be fully described. Corrections to the transaction history shall be made by corrective entry and not by erasure.
- c. The account ledger shall show remaining balances due from the borrower, including principal, escrow, late fees, and other charges.
- d. The account ledger shall show any change to the interest rate and the effective date of that change.
- e. The account ledger shall include full descriptions of payments made outside the normal course of business, for example, payments made by the sale of security, insurance claim, or endorser. For any payments made by death claims on credit insurance, the date of death shall be noted in the account ledger.
- f. When a loan is prepaid in full, the account ledger shall show the dates and amounts of any rebates made to the borrower including escrow rebates and the refunds of unearned insurance premiums.
- **18.16**(9) General business records. A licensee must keep the following general business records for at least 36 months:
- a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the mortgage business of the licensee.
- b. Complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of each mortgage applicant, including a record of the date and amount of all such payments actually made by each mortgage applicant.
- c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a licensee in connection with the conduct of the mortgage lending business.
- d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 535B.
- e. Copies of all contractual arrangements or understandings with third parties in any way relating to the provision of mortgage lending services (including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, any investor contracts, any employment agreements, and any noncompete agreements).
- f. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the administrator or any other regulatory or supervisory authority.
- g. Copies of all advertisements and solicitations concerning mortgage business directed at Iowa residents, including advertisements and solicitations on the Internet or by other electronic means, in the format (e.g., recorded sound, video, print) in which the advertisements and solicitations were published or distributed.
- **187—18.17(17A,535B) Annual report.** On or before April 15 each year, a licensee shall file with the administrator an annual report for the preceding calendar year on forms prescribed by the administrator. For every day after April 15 that the report is not received, the administrator may assess late fees of \$10 per day.

# 187—18.18(17A,535B) Advertising and representations to potential borrowers.

- **18.18(1)** Any advertisement of mortgage loans which are offered by or through a licensee or individual registrant shall conform to the following requirements:
- a. An advertisement shall be in compliance with Truth-in-Lending, Regulation Z, and any other applicable state and federal laws and regulations.
- b. An advertisement shall be made only for such products and terms as are actually available and, if their availability is subject to any material requirements or limitations, the advertisement shall specify those requirements or limitations.
- c. An advertisement shall not make any statement or fail to make any statement the result of which shall present a misleading or deceptive impression to consumers.
- **18.18(2)** A licensee or individual registrant receiving a verbal or written inquiry about the licensee's or individual registrant's services shall respond accurately to any questions about the scope and nature of such services and any costs

#### 187—18.19(17A,535B) Complaints and investigations.

- **18.19(1)** The administrator may, at any time and as often as the administrator deems necessary, investigate a business and examine the books, accounts, records, and files used by a licensee or individual registrant.
- **18.19(2)** The administrator may investigate complaints or alleged violations about any licensee or individual registrant.
- **18.19(3)** The following shall constitute a complaint or alleged violation:
- a. A written complaint received from a consumer, member of the public, employee business affiliate, or other governmental agency.
- b. Notice to the administrator from any source that the licensee or individual registrant has been the subject of disciplinary proceedings in another jurisdiction.
- c. Notice to the administrator from any source that the licensee or individual registrant has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory or district of the United States, or in any foreign jurisdiction.

#### **187—18.20(17A,535B)** Disciplinary action.

- **18.20(1)** The administrator has authority pursuant to Iowa Code chapters 535B and 17A to impose discipline for violations of Iowa Code chapter 535B and the rules promulgated thereunder.
- **18.20(2)** Grounds for discipline. The administrator may impose any of the disciplinary sanctions set out in Iowa Code section 535B.7 when the administrator finds any of the following:
- a. The licensee or individual registrant has violated a provision of Iowa Code chapter 535B or a rule adopted under Iowa Code chapter 535B or any other state or federal law applicable to the conduct of mortgage banking or mortgage brokering, including but not limited to Iowa Code chapters 535 and 535A.
- b. A fact or condition exists which, if it had existed at the time of the original application for the license or individual registration, would have warranted the administrator to refuse originally to issue the license or individual registration.
- The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

- d. The licensee or individual registrant has violated an order of the administrator.
- e. The licensee or individual registrant fails to fully cooperate with an examination or investigation, including failure to respond to an administrator inquiry within 30 calendar days of the date of mailing a written communication directed to the licensee's or individual registrant's last-known address on file with the administrator.
- f. The licensee or individual registrant has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the administrator.
- g. The licensee or individual registrant continues to operate as a mortgage banker or mortgage broker without an active and current license or individual registration.
- h. The individual registrant continues to act as a mortgage banker or mortgage broker without first satisfying the required continuing education, absent an express waiver granted by the administrator.
- i. The individual registrant has submitted a false report of continuing education.
- j. The licensee or individual registrant fails to notify the administrator within three days of the occurrence of one of the significant events set forth in rule 18.7(17A,535B).
- k. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's or the individual registrant's license, registration, or authorization to act as a mortgage banker or mortgage broker under the other state's or jurisdiction's law.
- 1. The licensee or individual registrant fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.
- **18.20(3)** A licensee or individual registrant may surrender a license or individual registration by delivering to the administrator a written notice of surrender.
- **18.20(4)** The administrator may issue a cease and desist order ordering a person to cease and desist from violating any provision of Iowa Code chapter 535B or rules adopted thereunder. The process for issuing a cease and desist order is described in Iowa Code section 535B.13.

Rules 187—18.1(17A,535B) to 187—18.20(17A,535B) are intended to implement Iowa Code chapter 535B as amended by 2005 Iowa Acts, chapter 83, and 2006 Iowa Acts, Senate File 2353.

- **187—18.21(252J) Nonpayment of child support.** The administrator shall deny the issuance or renewal of an individual registration upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, this rule shall apply.
- **18.21(1)** The notice required by Iowa Code section 252J.8 shall be served upon the individual registrant or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the individual registrant or applicant may accept service personally or through authorized counsel.
- **18.21(2)** The effective date of the denial of the issuance or renewal of an individual registration, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the individual registrant or applicant.
- **18.21(3)** The administrator is authorized to prepare and serve the notice required by Iowa Code section 252J.8 upon the individual registrant or applicant.

**18.21(4)** Individual registrants and applicants shall keep the administrator informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the administrator copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

**18.21(5)** All administrator fees for applications or individual registration renewal or reinstatement must be paid by individual registrants or applicants, and all continuing education requirements must be met before an individual registration will be issued, renewed or reinstated after the administrator has denied the issuance or renewal of an individual registration pursuant to Iowa Code chapter 252J.

**18.21(6)** In the event an individual registrant or applicant files a timely district court action following service of an administrator notice pursuant to Iowa Code sections 252J.8 and 252J.9, the administrator shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the administrator to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of an individual registration, the administrator shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**18.21(7)** The administrator shall notify the individual registrant or applicant in writing through regular first-class mail, or such other means as the administrator deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of an individual registration, and shall similarly notify the individual registrant or applicant when the individual registration is issued or renewed following the administrator's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapter 252J.

**187—18.22(261) Nonpayment of student loan.** The administrator shall deny the issuance or renewal of an individual registration upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to those procedures, this rule shall apply.

**18.22(1)** The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or individual registrant may accept service personally or through authorized counsel.

**18.22(2)** The effective date of the denial of the issuance or renewal of an individual registration, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or individual registrant.

**18.22(3)** The administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or individual registrant.

18.22(4) Applicants and individual registrants shall keep the administrator informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the administrator copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such ac-

tions, and withdrawals of certificates of noncompliance by the college student aid commission.

**18.22(5)** All administrator fees required for application, individual registration renewal or reinstatement must be paid by applicants or individual registrants, and all continuing education requirements must be met before an individual registration will be issued, renewed, or reinstated after the administrator has denied the issuance or renewal of an individual registration pursuant to Iowa Code chapter 261.

18.22(6) In the event an applicant or individual registrant timely files a district court action following service of an administrator notice pursuant to Iowa Code sections 261.126 and 261.127, the administrator shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the administrator to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of an individual registration, the administrator shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**18.22(7)** The administrator shall notify the applicant or individual registrant in writing through regular first-class mail, or such other means as the administrator deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of an individual registration, and shall similarly notify the applicant or individual registrant when the individual registration is issued or renewed following the administrator's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 261.126 and 261.127.

[Filed 5/3/06, effective 7/1/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5121B**

## ELDER AFFAIRS DEPARTMENT[321]

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 231.14(9), the Elder Affairs Department hereby adopts new Chapter 21, "Case Management Program for Frail Elders," Iowa Administrative Code.

Notice of Intended Action to rescind Chapter 21 and adopt a new Chapter 21 was published as ARC 4806B in the January 4, 2006, Iowa Administrative Bulletin. In addition, that amendment was simultaneously Adopted and Filed Emergency as ARC 4805B to create the policy framework to facilitate Medicaid approval of the state plan amendment to add case management as a waiver-covered service. Approval from the Centers for Medicare and Medicaid Services has been delayed to the point that there was no longer the need for emergency enactment of the rules; therefore, the emergency filing of the new Chapter 21 was rescinded in an Adopted and Filed Emergency amendment published as ARC 4994B in the March 29, 2006, Iowa Administrative Bulletin. Comments on the Notice of Intended Action (ARC 4806B) were received by the Department until 4 p.m. on February 3, 2006. A public hearing was held over the Iowa Communications Network (ICN) on February 3, 2006. Based on comments re-

#### ELDER AFFAIRS DEPARTMENT[321](cont'd)

ceived, the following changes, which are corrective in nature, were made from the Notice of Intended Action:

- 1. Paragraph 21.5(1)"c" was changed to require a need for two or more services rather than one or more to align with the current CMPFE eligibility criteria.
- 2. Proposed subrule 21.7(2) referring to the role of the Department of Human Services service worker in charge of clients from CMPFE was not adopted, and the remaining subrules were renumbered. This issue will be addressed by a Department of Human Services rule making.
- 3. Subrule 21.8(1) was changed to require the Department to establish statewide procedures for addressing potential conflicts of interest.
- 4. Proposed subrule 21.8(4) regarding criminal records and dependent adult abuse checks was removed, and subrule 21.8(5) was renumbered as 21.8(4). This issue will be addressed by a Department of Human Services rule making.
- 5. Rule 321—21.9(231) has been rearranged to make the education and experience requirements for the case manager more concise. The number of years for which the case manager may substitute experience for education has been reduced. The requirement that the CMPFE coordinator be a registered nurse remains, and the work experience requirement for that position is clarified. The option to substitute experience for education for the case management coordinator position has been eliminated. The training requirements of both positions have been consolidated into one subrule, thus eliminating duplicative language. The reference to the CMPFE registered nurse has been eliminated.
- 6. Subrule 21.11(4), paragraph "b," has been changed to require two or more, rather than one or more, activities of daily living to align with current practice.
- 7. Subrule 21.11(4), paragraph "d," regarding conducting a comprehensive assessment, has been clarified by removing "; and" from the end of the sentence and replacing it with a period. This change makes it clearer that subrule 21.11(5) is a separate requirement from the requirements enumerated in 21.11(4)
- 8. Proposed rule 321—21.13(231), which pertained to the nurse reviewer and submittal of assessments to the Iowa Foundation for Medical Care (IFMC) and the Department of Human Services (DHS) service worker, was not adopted, and subsequent rules were renumbered. The submittal of assessments to IFMC and the DHS service worker will be addressed by a Department of Human Services rule making.
- 9. Proposed subrule 21.15(3) referring to processing of reassessments was removed. This issue will be addressed by a Department of Human Services rule making.

The Commission adopted the new chapter during the Commission meeting held on April 21, 2006.

The new chapter will become effective on July 1, 2006. Some aspects of program operation will be subject to approval of the State of Iowa application to the Centers for Medicaid and Medicare Services to include case management as a service under the Elderly Waiver and to implementation of applicable administrative rules issued by the Department of Human Services.

These rules are intended to implement 2005 Iowa Acts, chapter 167, section 14, and Iowa Code section 231,23A.

These rules will become effective July 1, 2006.

The following **new** chapter is adopted.

#### CHAPTER 21 CASE MANAGEMENT PROGRAM FOR FRAIL ELDERS

- 321—21.1(231) Authority. This chapter implements the case management program for frail elders (CMPFE) as provided in Iowa Code section 231.23A.
- **321—21.2(231) Purpose.** This chapter sets out client eligibility, covered services, program administration and program standards to assist clients in making appropriate use of the long-term care continuum which ranges from care in the home to institutionalization.
- **321—21.3(231) Definitions.** Words and phrases used in this chapter are as defined in 321 IAC 1 unless the context indicates otherwise. The following definitions also apply to this chapter:
- 'Case management program for frail elders" or "CMPFE" means case management activities that assist an elder in gaining access to needed medical, social, and other appropriate services. Case management services are provided at the direction of the elder and include:
- 1. A comprehensive assessment of the individual's needs:
- 2. Development and implementation of a service plan to meet those needs;
  - Coordination and monitoring of service delivery;
  - 4. Evaluation of outcomes;
- 5. Periodic reassessment and revision of the service plan as needed; and
  - 6. Ongoing advocacy on behalf of the elder.
- "Department of human services" or "DHS" means the department established in Iowa Code chapter 217.

#### 321—21.4(231) Program administration.

- **21.4(1)** All AAA are, and shall remain, designated as CMPFE entities.
- **21.4(2)** Funding to AAA as local administrative entities shall be based on the area plan and adherence to DEA procedures and related IAPI.
- 21.4(3) The provisions of Iowa Code chapter 22 and 321 IAC 19 shall apply to all aspects of CMPFE services.
- **21.4(4)** The department's responsibilities shall include policy development and monitoring to ensure AAA adherence to contractual agreements, to applicable federal or state laws, and to regulations and rules.
- 21.4(5) The department shall specify the forms and data processing software systems to be used in the program.
- **21.4(6)** The department shall have full access to all case management records maintained by the AAA.
- 21.4(7) Appeals of decisions by the AAA shall follow the procedures given in 321 IAC 6.

#### 321—21.5(231) Eligibility for CMPFE services.

- **21.5(1)** A person meeting all the following criteria shall be eligible for CMPFE services:
  - Resides in Iowa;
  - b. Is aged 60 or older;
  - Needs two or more services;
- d. Does not live in, or is within 30 days of discharge from, a nursing facility as defined in Iowa Code section 135C.1(13); and
- e. Is in need of case management services based on a standardized assessment of needs.
- **21.5(2)** A person who qualifies for the DHS medical assistance elderly waiver shall also be eligible for CMPFE services.

#### ELDER AFFAIRS DEPARTMENT[321](cont'd)

**321—21.6(231) Initiation of case management services.** Case management services shall commence on the date of the assessment of the client.

#### **321—21.7(231) Discharge from CMPFE.**

- **21.7(1)** A client shall be discharged from CMPFE when the AAA has determined that any one of the following situations has occurred:
  - a. The client dies;
  - b. The client moves out of state;
- c. The client moves into a nursing facility and is expected to stay in the facility for more than 30 days;
- d. The client or the client's legal representative requests termination from CMPFE;
- e. The client is unwilling or unable to adhere to the agreed-upon service plan;
- f. The client or the client's legal representative refuses to provide access to information necessary for the development or implementation of the service plan;
- g. The client's needs cannot be met in a way that ensures the client's health, safety and welfare; or
- h. The client's goals are achieved and the client no longer needs case management.
- **21.7(2)** The CMPFE coordinator shall approve all recommendations for discharge prior to initiation of discharge action.
- **21.7(3)** If the discharge is due to the circumstances given in subrule 21.7(1), paragraphs "e" through "h," the case manager shall provide a written notice to the client or the client's legal representative stating the reasons for the discharge from case management and include the process for appealing the decision.

#### 321—21.8(231) Organizational requirements.

- **21.8(1)** To address potential conflicts of interest, each AAA shall adhere to written procedures established by the department and issued under IAPI. Written procedures shall include:
- a. The process for delegating case management responsibilities to a case manager;
  - b. Identification of where conflicts do, or could, exist;
  - c. Procedures to eliminate or minimize those conflicts;
- d. A process for conflict resolution with the client's best interest as the priority; and
- e. The process for documentation of conflict resolution which indicates the outcome is satisfactory to all parties.
- **21.8(2)** Each AAA shall adhere to department requirements as issued under IAPI.
- **21.8(3)** Each AAA shall implement the process established by the department for processing client appeals of CMPFE decisions, handling client complaints, and informing clients about their complaint and appeal rights.
- **21.8**(4) Each AAA shall ensure that all CMPFE staff complete mandatory reporter training requirements in accordance with Iowa Code chapter 235B.
- **321—21.9(231) Personnel qualifications.** After July 1, 2006, the following are minimum training, education and work history requirements for AAA and contract personnel in the CMPFE program:
  - **21.9(1)** Case manager qualifications for employment.
- a. The case manager shall hold a bachelor's degree in the human services field. The case manager may substitute up to two years' full-time equivalent work experience in a human services field involving direct contact with people in overcoming social, economic, psychological or health problems for two years of the educational requirement; or

- b. The case manager shall be currently licensed as a registered nurse in Iowa.
- **21.9(2)** CMPFE coordinator qualifications for employment.
- a. The CMPFE coordinator shall hold a bachelor's degree in the human services field and have one year of full-time equivalent work experience in a human services field involving direct contact with people in overcoming social, economic, psychological or health problems; or
- b. The CMPFE coordinator shall be a licensed registered nurse and have one year of full-time equivalent experience in a health care field involving direct contact with people in overcoming social, economic, psychological or health problems.
  - **21.9**(3) Training required during employment.
- a. The case manager shall attend case management orientation established by the department within six months of employment.
- b. The CMPFE coordinator shall attend case management coordinator training provided by the department within three months of employment.
  - c. The case manager and the CMPFE coordinator shall:
- (1) Receive formal training in completion of the CMPFE assessment tool; and
- (2) Attend six hours of long-term care or aging-related training per year.
- **321—21.10(231)** Covered services. Case management services may vary by client but shall include comprehensive screening and assessment of the client's needs, development and implementation of a written service plan, ongoing monitoring to ensure that services specified in the plan are being provided, and ongoing advocacy on behalf of the client.
- **321—21.11(231)** Screening and assessment of client needs. Screening and assessment of client needs shall consist of:
  - **21.11**(1) Scheduling the home visit.
- **21.11(2)** Obtaining the client's signature on a standard release of information form which documents the client's permission to share information for screening, assessment and case management.
- **21.11(3)** Conducting the functional abilities screening evaluation (FASE) or similar screening tool as established by the department.
  - **21.11(4)** Conducting a comprehensive assessment if:
- a. The client answers one or more of the screening tool mental health questions incorrectly; or
- b. The client is unable to perform two or more of the screening tool activities of daily living (ADL) items; or
- c. Professional judgment of the person completing the screening indicates that the client is in need of further assessment regardless of the results of the screening tool; or
- d. The client has applied for the elderly waiver under the medical assistance program.
- **21.11(5)** Contacting sources for additional information to complete the assessment tool as needed.

#### 321—21.12(231) Service plan development.

- **21.12(1)** During the home visit and upon completion of the assessment, the case manager shall develop an initial service plan with the client and provide the client with a list of known service providers available in the client's community.
  - 21.12(2) The written service plan shall include:
- a. Identification of the client's service needs, functioning level, strengths and available family or informal service providers and community resources;
  - b. Level of care;

#### ELDER AFFAIRS DEPARTMENT[321](cont'd)

- c. Goals;
- d. Outcomes;
- e. Waiver service providers and the frequency and cost of services;
  - f. Nonwaiver services; and
  - g. Exit and contingency planning.
- **21.12(3)** The case manager shall educate the client about service options and explain to the client how to access assistance in situations of suspected dependent adult abuse.
- **21.12(4)** The client or the client's legal representative and the case manager shall sign the service plan.
- **21.12(5)** The CMPFE coordinator shall review and sign the service plan.
- **21.12(6)** For clients who are enrolled in the medical assistance elderly waiver, the service plan shall be transmitted to the DHS service worker for final approval.
- **321—21.13(231) Monitoring.** In order to ensure client health, safety and welfare, the case manager shall:
  - 1. Monitor the provision of services on an ongoing basis;
- 2. Hold an individual face-to-face meeting with the client at least quarterly to review the service plan and services provided; and
- 3. Document in the client's case files all contacts and case management activities undertaken on behalf of the client.

#### 321—21.14(231) Reassessment.

- **21.14(1)** A reassessment shall be conducted whenever there is a significant change in the client's status or at least every 12 months. The reassessment shall include review and modification of the information contained in the most recent assessment.
- **21.14(2)** The service plan shall be revised to reflect changes, deletions or additions to services based on any changes in the client's needs.
- **321—21.15(231) Confidentiality.** Except by written consent of the client or the client's legal representative, the use or disclosure by any person of any information concerning a client for any purpose not directly connected with the administration of the responsibilities of the department, AAA or authorized service provider is prohibited.

# 321—21.16(231) Contracting for case management services.

- **21.16(1)** AAA may choose to contract with local provider agencies for delivery of case management services. If the AAA contracts for case management services, the AAA shall have written procedures established under 321 IAC 6.9(231) that create a framework for ongoing review of how the contract agency is meeting program standards and the terms of the contract. The department shall audit AAA procedures to ensure that the area agency's monitoring is sufficient and timely.
- **21.16(2)** Provider agencies shall meet all program organization and personnel requirements of this chapter.
- **21.16(3)** The following safeguards shall be in place to ensure that service plan development is conducted in the best interest of the client:
- a. When assigning a client to a case management entity under contract, the AAA shall attempt to assign the client to an agency not currently providing services to that particular client if the relationship is known prior to assignment and case management services are available from multiple providers.
- b. During the service plan development process, case managers employed by an agency that also provides other di-

rect waiver services shall inform the client or the client's legal representative that such a relationship exists and of the specifics of the relationship such as name and services. The case manager shall emphasize to the client that the client has free choice of providers and that selection of any particular provider will not influence the services provided by the case manager. The conversation and the client's response shall be documented in the case notes.

- c. When explaining provider options, the case manager shall fully provide all known facts about the services and the service provider agencies to the client or the client's legal representative. The details presented shall include, at a minimum, the name, address, and telephone number of the potential provider agencies; the types of services provided; and the amount of service the client would be able to receive if there is a cost differential between providers of the same service.
- d. All service plans and updates shall be reviewed and approved by the AAA prior to implementation for nonwaiver clients and prior to transmittal to DHS for elderly waiver clients
- **21.16(4)** The AAA must have a written plan completed to monitor adherence by case management providers to the standards in subrule 21.16(3). Contracts must contain provisions that require case management providers to have written conflict of interest policies that include but are not limited to:
- a. Specific procedures to identify where conflicts could exist;
- b. Procedures to eliminate or minimize the conflicts upon identification of situations that might indicate that a conflict of interest could exist;
- c. Steps that must be taken to resolve the issue when a conflict of interest arises or a complaint of conflict of interest is received; and
- d. Written documentation or follow-up letters that show that the outcome was satisfactory to all parties involved.

These rules are intended to implement 2005 Iowa Acts, chapter 167, section 14, and Iowa Code section 231.23A.

[Filed 5/5/06, effective 7/1/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5110B**

# MEDICAL EXAMINERS BOARD[653]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 272C.3, the Board of Medical Examiners hereby amends Chapter 2, "Public Records and Fair Information Practices," Iowa Administrative Code.

The amendment clarifies that a Board-ordered dismissal on part or all of the charges in a contested case is a public record.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4861B**. No oral or written comments on the amendment were received. This amendment is identical to the one published under Notice.

The Board adopted this amendment on April 27, 2006. This amendment is intended to implement Iowa Code section 17A.12(6).

#### MEDICAL EXAMINERS BOARD[653](cont'd)

This amendment will become effective on June 28, 2006. The following amendment is adopted.

Amend subrule 2.14(4) as follows:

- **2.14(4)** Licensee disciplinary proceedings. The following information regarding licensee disciplinary proceedings:
  - a. Formal charges and notices of hearing.
- b. Completed records of open disciplinary hearings. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4) or
- c. Final written decisions imposing sanctions, including informal stipulations and settlements; or dismissing the charges, in whole or in part.

[Filed 5/3/06, effective 6/28/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5111B**

## MEDICAL EXAMINERS BOARD[653]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

The amendment establishes collaborative drug therapy management between Iowa-licensed physicians and pharmacists in the community and hospital practice settings. After a physician and pharmacist execute a protocol and submit it to the Board of Pharmacy Examiners, the protocol may be used to guide collaborative practice with the physicians' and pharmacists' patients who provide written consent. A hospital pharmacy and therapeutics (P&T) committee may authorize hospital pharmacists to perform drug therapy management for inpatients or clinic patients in the hospital's clinics through a hospital practice protocol. A hospital clinic means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee. The rule outlines the requirements of community and hospital practice protocols.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4872B**. A public hearing was held jointly with the Board of Pharmacy Examiners on March 8, 2006. Written and oral comment was received. The adopted amendment has been revised based on public comment and negotiation with the Board of Pharmacy Examiners and is different from that which was published under Notice of Intended Action in that definitions of "P&T committee" and "therapeutic interchange" have been included in the adopted rule.

The Board adopted this amendment on April 27, 2006. This amendment is intended to implement Iowa Code

chapters 148, 150 and 150A.

This amendment will become effective on October 1, 2006, to allow time for those involved in collaborative practice to submit protocols.

The following amendment is adopted.

Renumber rule 653—13.4(147,148,150) as 653— **13.5(147,148,150)** and adopt the following <u>new</u> rule 653— 13.4(147):

653—13.4(147) Supervision of pharmacists engaged in collaborative drug therapy management. A supervising physician may only delegate aspects of drug therapy management to an authorized pharmacist pursuant to a written protocol with a pharmacist pursuant to the requirements of this rule. The physician is considered the supervisor and retains the ultimate responsibility for the care of the patient. The authorized pharmacist retains full responsibility for proper execution of pharmacy practice.

13.4(1) Definitions.

"Authorized pharmacist" means an Iowa-licensed pharmacist who meets the training requirements of the Iowa board of pharmacy examiners (IBPE) as specified in the drug therapy management criteria in 657—8.34(155A).

"Board" means the board of medical examiners of the state of Iowa.

'Collaborative drug therapy management' means participation by a physician and an authorized pharmacist in the management of drug therapy pursuant to a written community practice protocol or a written hospital practice protocol.

'Collaborative practice' means that a physician may delegate aspects of drug therapy management for the physician's patients to an authorized pharmacist through a written community practice protocol. "Collaborative practice" also means that a P&T committee may authorize hospital pharmacists to perform drug therapy management for inpatients and the hospital's clinic patients through a hospital practice protocol when the clinic and the pharmacist are under the direct authority of the hospital's P&T committee.

"Community practice protocol" means a written, executed agreement entered into voluntarily between a physician and an authorized pharmacist establishing drug therapy management for one or more of the physician's patients residing in a community setting. A community practice protocol shall comply with the requirements of subrule 13.4(2).

"Community setting" means a location outside a hospital inpatient, acute care setting or a hospital clinic setting. A community setting may include, but is not limited to, a home, group home, assisted living facility, correctional facility, hospice, or long-term care facility.

'Hospital clinic' means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

"Hospital pharmacist" means an Iowa-licensed pharmacist who meets the requirements for participating in a hospital practice protocol as determined by the hospital's P&T committee.

"Hospital practice protocol" means a written plan, policy, procedure, or agreement that authorizes drug therapy management between physicians and hospital pharmacists within a hospital and its clinics as developed and determined by its P&T committee. Such a protocol may apply to all physicians and hospital pharmacists at a hospital or the hospital's clinics under the direct authority of the hospital's P&T committee or only to those physicians and pharmacists who are specifically recognized. A hospital practice protocol shall comply with the requirements of subrule 13.4(3).

"IBPE" means the Iowa board of pharmacy examiners.

"P&T committee" means a committee of the hospital composed of physicians, pharmacists, and other health professionals that evaluates the clinical use of drugs within the hospital, develops policies for managing drug use and ad-

#### MEDICAL EXAMINERS BOARD[653](cont'd)

ministration in the hospital, and manages the hospital drug formulary system.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician who executes a written protocol with an authorized pharmacist shall supervise the pharmacist's activities involved in the overall management of patients receiving medications or disease management services under the protocol. The physician may delegate only drug therapies that are in areas common to the physician's practice.

"Therapeutic interchange" means an authorized exchange of therapeutic alternate drug products in accordance with a previously established and approved written protocol.

**13.4(2)** Community practice protocol.

- a. A physician shall engage in collaborative drug therapy management with a pharmacist only under a written protocol that is identified by topic and has been submitted to the IBPE or a committee authorized by the IBPE. A protocol executed after July 1, 2008, will no longer be required to be submitted to the IBPE; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBPE.
  - b. The community practice protocol shall include:
- (1) The name, signature, date and contact information for each authorized pharmacist who is a party to the protocol and is eligible to manage the drug therapy of a particular patient. If more than one authorized pharmacist is a party to the agreement, the pharmacists shall work for a single licensed pharmacy and a principal pharmacist shall be designated in the protocol.
- (2) The name, signature, date and contact information for each physician who may prescribe drugs and is responsible for supervising a patient's drug therapy management. The physician who initiates a protocol shall be considered the main caregiver for the patient respective to that protocol and shall be noted in the protocol as the principal physician.
- (3) The name and contact information of the principal physician and the principal authorized pharmacist who are responsible for development, training, administration, and quality assurance of the protocol.
- (4) A detailed written protocol pursuant to which the authorized pharmacist will base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:
- 1. Prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration and route of administration of the drug authorized by the patient's physician. The protocol shall not authorize the pharmacist to change a Schedule II drug or initiate a drug not included in the established protocol.
- 2. Laboratory tests. The protocol may authorize the pharmacist to obtain or conduct specific laboratory tests as long as the tests relate directly to the drug therapy management
- 3. Physical findings. The protocol may authorize the pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions or determine if the patient should be referred back to the patient's physician for follow-up.
- 4. Patient activities. The protocol may authorize the pharmacist to monitor specific patient activities.

- (5) Procedures for the physician to secure the patient's written consent. If the physician does not secure the patient's written consent, the pharmacist shall secure such and notify the patient's physician within 24 hours.
- (6) Circumstances that shall cause the pharmacist to initiate communication with the physician, including but not limited to the need for new prescription orders and reports of the patient's therapeutic response or adverse reaction.
- (7) A detailed statement identifying the specific drugs, laboratory tests and physical findings upon which the pharmacist shall base drug therapy management decisions.
- (8) A provision for the collaborative drug therapy protocol to be reviewed, updated and reexecuted or discontinued at least every two years.
- (9) A description of the method the pharmacist shall use to document the pharmacist's decisions or recommendations for the physician.
- (10) A description of the types of reports the physician requires the pharmacist to provide and the schedule by which the pharmacist is to submit these reports. The schedule shall include a time frame in which a pharmacist shall report any adverse reaction to the physician.
- (11) A statement of the medication categories and the type of initiation and modification of drug therapy that the physician authorizes the pharmacist to perform.
- (12) A description of the procedures or plan that the pharmacist shall follow if the pharmacist modifies a drug therapy.
- (13) Procedures for record keeping, record sharing and long-term record storage.
  - (14) Procedures to follow in emergency situations.
- (15) A statement that prohibits the pharmacist from delegating drug therapy management to anyone other than another authorized pharmacist who has signed the applicable protocol.
- (16) A statement that prohibits a physician from delegating collaborative drug therapy management to any unlicensed or licensed person other than another physician or authorized pharmacist.
- (17) A description of the mechanism for the pharmacist and physician to communicate with each other and for documentation by the pharmacist of the implementation of collaborative drug therapy.
- c. Collaborative drug therapy management is valid only when initiated by a written protocol executed by at least the patient's physician and one authorized pharmacist.
- d. A collaborative drug therapy management protocol must be filed with the IBPE, kept on file in the pharmacy and made available to the board or IBPE upon request. A protocol executed after July 1, 2008, will no longer be required to be submitted to the IBPE; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBPE.
- e. A physician may terminate or amend the collaborative drug therapy management protocol with an authorized pharmacist if the physician notifies, in writing, the pharmacist and the IBPE. Notification shall include the name of the authorized pharmacist, the desired change, and the proposed effective date of the change. After July 1, 2008, the physician shall no longer be required to notify the IBPE of changes in the protocol.
- f. Patient consent for community practice protocols. The physician or pharmacist who initiates a protocol with a patient is responsible for securing a patient's written consent to participate in drug therapy management and for transmitting a copy of the consent to the other party within 24 hours.

#### MEDICAL EXAMINERS BOARD[653](cont'd)

The consent shall indicate which protocol is involved. Any variation in the protocol for a specific patient needs to be communicated to the other party at the time of securing the patient's consent. The patient's physician shall maintain the patient consent in the patient's medical record.

**13.4(3)** Hospital practice protocol.

- a. A hospital's P&T committee shall determine the scope and extent of collaborative drug therapy management practices that may be conducted by its hospital pharmacists in the hospital and its clinics. Hospital clinics are restricted to outpatient care clinics operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.
- b. Collaborative drug therapy management within a hospital setting or the hospital's clinic setting is valid only when approved by the hospital's P&T committee.
  - c. The hospital practice protocol shall include:
- (1) The names or groups of physicians and pharmacists who are authorized by the P&T committee to participate in collaborative drug therapy management.
- (2) A plan for development, training, administration, and quality assurance of the protocol.
- (3) A detailed written protocol pursuant to which the hospital pharmacist shall base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:
- 1. Medication orders and prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration and route of administration of the drug authorized by the physician. The protocol shall not authorize the hospital pharmacist to change a Schedule II drug or initiate a drug not included in the established protocol.
- 2. Laboratory tests. The protocol may authorize the hospital pharmacist to obtain or conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.
- 3. Physical findings. The protocol may authorize the hospital pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions or determine if the patient should be referred back to the physician for follow-up.
- (4) Circumstances that shall cause the hospital pharmacist to initiate communication with the patient's physician, including but not limited to the need for new medication orders and prescription drug orders and reports of a patient's therapeutic response or adverse reaction.
- (5) A statement of the medication categories and the type of initiation and modification of drug therapy that the protocol authorizes the hospital pharmacist to perform.
- (6) A description of the procedures or plan that the hospital pharmacist shall follow if the hospital pharmacist modifies a drug therapy.
- (7) A description of the mechanism for the hospital pharmacist and the patient's physician to communicate and for the hospital pharmacist to document implementation of the collaborative drug therapy.

This rule is intended to implement Iowa Code chapters 148, 150 and 150A.

[Filed 5/3/06, effective 10/1/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5107B**

## PROFESSIONAL LICENSURE DIVISION[645]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners amends Chapter 20, "Administrative and Regulatory Authority for the Board of Barber Examiners," and Chapter 25, "Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools," Iowa Administrative Code.

The amendments provide the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening and to retain licensure overpayments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 1, 2006, as **ARC 4915B**. A public hearing was held on March 21, 2006, from 1:30 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No comments were received, and these amendments are identical to those published under Notice of Intended Action.

The amendments were adopted by the Board of Barber Examiners on April 25, 2006.

These amendments will become effective June 28, 2006. These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **645—20.1(17A)** by adding the following <u>new</u> definition in alphabetical order:

"Overpayment" means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

ITEM 2. Adopt <u>new</u> rule 645—25.5(158) as follows:

- **645**—**25.5**(**158**) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.
- **25.5(1)** Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:
- a. A description of the type of examination to which the licensee must submit.

#### PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.
- **25.5(2)** Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.
- 25.5(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.
- **25.5(4)** Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).
- **25.5(5)** Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).
- 25.5(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.
- **25.5(7)** Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

[Filed 4/25/06, effective 6/28/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5106B**

## PROFESSIONAL LICENSURE DIVISION[645]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for the Licensing and Regulation of Hearing Aid Dispensers amends Chapter 120, "Administrative and Regulatory Authority for the Board of Examiners for the Licensing and Regulation of Hearing Aid Dispensers," and Chapter 124, "Discipline for Hearing Aid Dispensers," Iowa Administrative Code.

The amendments provide the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening and to retain licensure overpayments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 1, 2006, as **ARC 4914B**. A public hearing was held on March 21, 2006, from 1 to 1:30 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. The Board adopted the amendments with no changes from the Notice.

The amendments were adopted by the Board on April 24, 2006.

These amendments will become effective June 28, 2006. These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **645—120.1(17A,154A)** by adding the following **new** definition in alphabetical order:

"Overpayment" means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

#### ITEM 2. Adopt <u>**new**</u> rule 645—124.5(154A) as follows:

- 645—124.5(154A) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.
- **124.5(1)** Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:
- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

#### PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

**124.5(2)** Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

124.5(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

**124.5(4)** Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

**124.5**(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

124.5(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

**124.5**(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

[Filed 4/25/06, effective 6/28/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5105B**

## PROFESSIONAL LICENSURE DIVISION[645]

## **Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care Examiners amends Chapter 260, "Administrative and Regulatory Authority for the Board of Respiratory Care Examiners," Iowa Administrative Code.

The amendment provides the Board the ability to retain licensure overpayments of less than \$10.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4884B**. A public hearing was held on April 4, 2006, from 9 to 9:30

a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. One public comment was received that if funds were retained, then the licensee should be credited on account. The Board adopted the amendment with no changes from the Notice.

The amendment was adopted by the Board of Respiratory Care Examiners on April 24, 2006.

This amendment will become effective June 28, 2006. This amendment is intended to implement Iowa Code chapters 21, 147, 152B and 272C.

The following amendment is adopted.

Amend rule **645—260.1(17A)** by adding the following **new** definition in alphabetical order:

"Overpayment" means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

> [Filed 4/25/06, effective 6/28/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5120B**

## PUBLIC SAFETY DEPARTMENT[661]

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 100C.7, the State Fire Marshal hereby adopts new Chapter 275, "Certification of Automatic Fire Extinguishing System Contractors," Iowa Administrative Code.

Iowa Code chapter 100C was enacted during the 2004 session of the Iowa General Assembly and became effective July 1, 2005. It provides for the certification of automatic fire extinguishing system contractors based on administrative rules adopted by the Fire Marshal pursuant to Iowa Code chapter 17A. The statute provides for the establishment of a Fire Extinguishing System Contractors Advisory Board appointed by the Commissioner of Public Safety and provides that the Fire Marshal shall consult with the Board prior to the adoption of the administrative rules for the certification program. The Advisory Board has been instrumental in the development of these rules, and the rules adopted herein are based on the recommendations of the Board. In developing recommendations, the Board reviewed rules and statutes from other states, material from industry groups, and information from organizations which develop industry standards and codes, such as the National Fire Protection Association (NFPA), and testing organizations, such as the National Institute for Certification in Engineering Technologies (NICET).

Initially, rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 4753B** on December 21, 2005. Significant public comment on those proposed rules was received during the period for public participation, including at the public hearing held January 18, 2006. The Board recommended substantial changes to the original proposed rules. Based on those recommendations, the Fire Marshal determined that it would be appropriate to terminate that Notice of Intended Action and to issue a new Notice of Intended Action, which was published in the Iowa Administrative Bulletin as **ARC 5022B** on March 29, 2006. The changes from the original Notice of Intended Ac-

tion which were incorporated in the new Notice (ARC 5022B) were catalogued in the preamble of the new Notice and will not be repeated here.

A public hearing on the rules proposed in ARC 5022B was held on April 19, 2006. Several comments were received and primarily focused on whether the fees for certification should be reduced for contractors whose endorsements would be restricted to installation of preengineered systems. The Board concluded, and the Fire Marshal concurs, that it would be appropriate not to reduce the certification fees based on the endorsement received because the fees reflect the anticipated costs of processing applications. However, a change was made to allow multiple endorsements under one certification, with an additional fee of \$50 for each additional endorsement. A change was also made to allow for more than one responsible managing employee under a single certification, in order for the requirements for multiple certifications to be satisfied. Again, an additional fee of \$50 will be charged for each additional responsible managing employee on a single certification. The end result may be a substantial cost savings for a contractor seeking multiple endorsements since, under the proposed rules, a separate certification for each endorsement would have been required.

Other changes were made to the numbering of certain provisions, especially those concerning provisional certification, to make them more understandable. Also, language was added to clarify the responsibilities of contractors during the first three months of the program. The rules will take effect on July 1, 2006. Contractors will have until August 15, 2006, to make initial application, and may operate until October 1, 2006, on the basis of having made application.

These rules are intended to implement Iowa Code chapter 100C.

These rules will become effective on July 1, 2006. The following **new** chapter is adopted.

# CHAPTER 275 CERTIFICATION OF AUTOMATIC FIRE EXTINGUISHING SYSTEM CONTRACTORS

**661—275.1(100C) Establishment of program.** There is established within the fire marshal division a fire extinguishing system contractors certification program. The program is established pursuant to Iowa Code chapter 100C.

**275.1(1)** Certification required. No person shall act as a fire extinguishing system contractor without being currently certified as a fire extinguishing system contractor by the fire marshal, except as provided in subrule 275.1(3).

275.1(2) Endorsement. The certification of each contractor shall carry an endorsement for one or more of the following:

- a. Automatic sprinkler system layout;
- b. Special hazards suppression systems;
- c. Installation of preengineered dry chemical or wet agent fire suppression systems;
- d. Installation of preengineered water-based fire suppression systems in one- and two-family dwellings;
  - e. Testing and inspection of water-based systems; or
  - f. Any combination thereof.

Any person acting as a fire extinguishing system contractor shall do so only in relation to systems covered by the endorsements on the contractor's certification.

**275.1(3)** Length of certification. Certification shall normally be for one year and shall expire on March 31 each year. A certification which is effective on a date other than April 1

shall be effective on the date on which the certification is issued and shall expire on the following March 31.

- a. Certification between July 1, 2006, and October 1, 2006. A contractor may operate without certification between July 1, 2006, and September 30, 2006, as follows:
- (1) Prior to August 15, 2006, the contractor may operate as a contractor only if the contractor intends to apply for certification by August 15, 2006; a contractor operating under this subparagraph may perform contracting work only within the scope of certification for which the contractor intends to apply.
- (2) On or after August 15, 2006, and before October 1, 2006, the contractor may operate as a contractor subject to this chapter only if the contractor has applied for certification under this chapter. A contractor operating under this subparagraph may perform contracting work only within the scope of certification for which the contractor has applied.
- b. Any certification for which application is made by August 15, 2006, and accepted, shall be effective retroactive to July 1, 2006, and appropriate fees shall be collected pursuant to rule 661—275.5(100C).

**275.1(4)** Inquiries. Inquires regarding the fire extinguishing system contractors certification program may be addressed to:

Fire Extinguishing System Contractors Certification Program

Fire Marshal Division

Iowa Department of Public Safety

401 S.W. 7th Street, Suite N

Des Moines, Iowa 50309

Inquiries may be addressed by electronic mail to <u>fescep</u> @dps.state.ia.us, by telephone to (515)281-5821, or by facsimile to (515)242-6299.

**661—275.2(100C) Definitions.** The following definitions apply to rules 661—275.1(100C) through 661—275.7(100C):

"Automatic fire extinguishing system" means a system of devices and equipment that automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire and includes automatic sprinkler systems, carbon dioxide extinguishing systems, deluge systems, automatic dry-chemical extinguishing systems, foam extinguishing systems, and halogenated extinguishing systems, or other equivalent fire extinguishing technologies recognized by the fire extinguishing system contractors advisory board.

"Automatic sprinkler system" means an integrated fire protection sprinkler system usually activated by heat from a fire designed in accordance with fire protection engineering standards and includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern.

"Carbon dioxide extinguishing system" means a system supplying carbon dioxide from a pressurized vessel through fixed pipes and nozzles and includes a manual or automatic actuating mechanism.

"Clean agent" means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

"Deluge system" means a sprinkler system employing open sprinklers attached to a piping system connected to a water supply through a valve that is opened by the operation of a detection system installed in the same area as the sprinklers.

"Dry chemical" means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

"Dry pipe sprinkler system" means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

"Fire extinguishing system contractor" or "contractor" means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state.

"Foam extinguishing system" means a special system discharging foam made from concentrates, either mechanically or chemically, over the area to be protected.

"Halogenated extinguishing system" means a fire extinguishing system using one or more atoms of an element from the halogen chemical series of fluorine, chlorine, bromine, and iodine.

"Layout" means drawings, calculations and component specifications to achieve the specified system design installation. "Layout" does not include design.

"Listed" means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

"Maintenance inspection" means periodic inspection and certification completed by a fire extinguishing system contractor. For purposes of this chapter, "maintenance inspection" does not include an inspection completed by a local building official, fire inspector, or insurance inspector, when acting in an official capacity.

"Preengineered dry chemical or wet agent fire suppression system" means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer's installation manual, which is referenced as part of the listing.

"Preengineered water-based system" means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

"Responsible managing employee" means an owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor who is designated as a responsible managing employee for a fire extinguishing system contractor and who meets the requirements for a responsible managing employee established in rule 661—275.3(100C).

"Special hazards suppression system" means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

"Wet agent" or "wet chemical" means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

661—275.3(100C) Responsible managing employee. Each fire extinguishing system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 275.1(2). If more than one responsible managing employee is designated, the contractor shall indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

**275.3(1)** The responsible managing employee or employees shall be designated in the application for certification; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the fire marshal, in writing, within 30 calendar days, on a form designated by the fire marshal.

275.3(2) If a responsible managing employee is no longer acting in that role and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee shall become the responsible managing employee and the contractor shall so notify the fire marshal, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the fire marshal shall indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

275.3(3) If a responsible managing employee designated by a fire extinguishing system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the fire marshal, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity, on a form designated by the fire marshal. If the fire marshal has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the fire marshal shall suspend the certification of the fire extinguishing system contractor.

**275.3(4)** A responsible managing employee or an alternate responsible managing employee shall meet one of the following requirements:

a. Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design.

b. Current certification by the National Institute for Certification in Engineering Technologies at level III or above in fire protection technology, for automatic sprinkler system layout, special hazards suppression systems, or both.

(1) Prior to April 1, 2008, a fire extinguishing system contractor may receive provisional certification if the person designated as the contractor's responsible managing employee has initiated procedures for obtaining certification by the National Institute for Certification in Engineering Technologies at level III in fire protection technology for automatic sprinkler system layout, special hazards suppression systems, or both, and has satisfactorily completed testing

which is offered by a third party and has been approved by the fire marshal, for competency in fire protection technology for automatic sprinkler system layout, special hazards suppression systems, or both. The contractor shall provide the fire marshal with notification and documentation of the satisfactory completion of required third-party testing within 30 days after the date on which the contractor's provisional certification was initially issued.

After one year of provisional certification of the contractor, the responsible managing employee shall have current certification by the National Institute for Certification in Engineering Technologies at level II or above in fire protection technology for automatic sprinkler system layout, special hazards suppression systems, or both. Documentation that this requirement has been met shall be provided by the contractor to the fire marshal within 30 days after the one-year anniversary of the effective date of the initial provisional certification.

Provisional certification shall not be recognized on or after April 1, 2009.

- (2) Reserved.
- c. A contractor may install preengineered dry chemical or wet agent fire suppression systems, if the responsible managing employee meets the following requirements:
- (1) Satisfactory completion of any training required by the manufacturer for each system or systems which the contractor installs; and
- (2) Certification by the National Institute for Certification in Engineering Technologies at level II or above in fire protection technology, for special hazards suppression systems; certification by the National Association of Fire Equipment Distributors in preengineered kitchen fire suppression systems or preengineered industrial fire suppression systems; or satisfactory completion of an applicable training or testing program which has been approved by the fire marshal

Prior to April 1, 2008, a contractor may receive provisional certification with endorsement for installation of dry chemical or wet agent systems if the responsible managing employee has satisfactorily completed any training required by the manufacturer for each system which the contractor installs. The provisional certification shall not be recognized on or after April 1, 2009.

- d. A contractor may install preengineered water-based systems in one- or two-family dwellings if the responsible managing employee meets the following requirements:
- (1) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs; and
- (2) Satisfactory completion of an applicable training or testing program which has been approved by the fire marshal.

Until April 1, 2008, a contractor may receive provisional certification if the responsible managing employee has satisfactorily completed training required by the manufacturer for the installation of each system which the contractor installs. The provisional certification shall not be recognized on or after April 1, 2009.

- e. A contractor may inspect and test water-based fire extinguishing systems if the responsible managing employee has current certification from the National Institute for Certification in Engineering Technologies at level III in fire protection technology, inspection and testing of water-based systems.
- (1) Prior to April 1, 2008, a contractor may receive provisional certification with an endorsement for inspection and

testing of water-based fire extinguishing systems if the responsible managing employee has initiated procedures for obtaining certification from the National Institute for Certification in Engineering Technologies at level III in fire protection technology, inspection and testing of water-based systems. After one year of provisional certification with an endorsement for inspection and testing of water-based fire extinguishing systems, the responsible managing employee shall have certification from the National Institute for Certification in Engineering Technologies at level II in fire protection technology, inspection and testing of water-based systems.

Provisional certification shall not be recognized on or after April 1, 2009.

(2) Reserved.

**275.3(5)** In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the fire marshal, such approval is required prior to acceptance of the training or testing to meet certification requirements. Approval by the fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the fire marshal. Any individual, firm or organization seeking to obtain such approval may apply to the fire marshal. An application form for approval of a testing or training program may be obtained by contacting the fire extinguishing system contractors certification program as specified in subrule 275.1(4).

**275.3(6)** Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee.

**661—275.4(100C)** Certification requirements. A fire extinguishing system contractor shall meet all of the following requirements in order to receive certification from the fire marshal and shall continue to meet all requirements throughout the period of certification. The contractor shall notify the fire marshal, in writing, on a form designated by the fire marshal, within 30 calendar days if the contractor fails to meet any requirement for certification.

**275.4(1)** The contractor shall designate one or more responsible managing employees as provided in rule 661—275.3(100C).

- 275.4(2) The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.
- a. The carrier of any insurance coverage maintained to meet this requirement shall notify the fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.
- b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of a fire extinguishing system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

**275.4(3)** The contractor shall maintain current registration as a contractor with the labor services division of the

Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code.

EXCEPTION: A contractor shall not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code.

**275.4(4)** The contractor shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

## 661—275.5(100C) Application and fees.

275.5(1) Application. Any contractor seeking certification as a fire extinguishing system contractor shall submit a completed application form to the fire marshal. The application shall be filed no later than 30 days prior to the date on which certification is required or on which an existing certification expires. An application form may be obtained from the fire marshal or from the Web site of the fire extinguishing system contractor certification program (<a href="www.state.ia.us/government/dps/fm/fescep">www.state.ia.us/government/dps/fm/fescep</a>). The application form shall be submitted with all required attachments and the required application fee established in subrule 275.5(2). An application shall not be considered complete unless all required information is submitted, including required attachments, and fees, and shall not be processed until it is complete.

275.5(2) Certification fee. The certification fee shall be \$500 per year. If an application is denied, all except \$100 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application.

If an application for certification provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there shall be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for certification provides for more than one endorsement as provided in subrule 275.1(2), there shall be an additional fee of \$50 for each endorsement beyond the first.

EXCEPTION: If a certification is effective after April 1 and no later than June 30, the certification fee shall be \$500. The certification fee for a certification which becomes effective between July 1 and September 30 shall be \$400. The certification fee for a certification which becomes effective between October 1 and December 31 shall be \$300. The certification fee for a certification which becomes effective between January 1 and March 31 shall be \$200. If an application for certification provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there shall be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for certification provides for more than one endorsement as provided in subrule 275.1(2), there shall be an additional fee of \$50 for each endorsement beyond the first.

**275.5(3)** Payment. The certification fee shall be submitted by draft, check, or money order in the applicable amount payable to the Fire Extinguishing System Contractor Certification Program. If the application is denied, the certification fee less \$100 shall be returned to the applicant, except as provided in subrule 275.5(2).

**275.5(4)** Amended certification fee. The fee for issuance of an amended certification is \$100. The fee shall be submitted with the request for an amended certification. A con-

tractor shall request and the fire marshal shall issue an amended certificate for any of the following:

- a. A change in the designation of a responsible managing employee;
  - b. A change in insurance coverage; or

c. A change in any other material information included in or with the initial or renewal application.

Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the fire marshal but shall not require issuance of an amended certification or payment of the amended certification fee.

**275.5**(5) Attachments. Required attachments to the application for certification include, but are not limited to, the following:

- a. Documentation verifying that the contractor has in force the insurance coverage required by subrule 275.4(2). The documentation shall include an acknowledgment that the contractor's insurance coverage extends to any work performed by the contractor within the scope of certification pursuant to this chapter. The documentation may consist of a letter from the insurance carrier or a copy of the insurance certificate with an endorsement showing the required information.
- b. Documentation verifying that the person designated as the responsible managing employee and any persons designated as alternate responsible managing employees have met the applicable certification requirements.
- **661—275.6(100C)** Complaints. Complaints regarding the performance of any certified contractor, failure of a certified contractor to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as a fire extinguishing system contractor without certification may be filed with the fire marshal. Complaints should be addressed as follows:

Fire Extinguishing System Contractors

Certification Program
Fire Marshal Division
Iowa Department of Public Safety
401 S.W. 7th Street, Suite N
Des Moines, Iowa 50309

Complaints may be submitted by electronic mail to <u>fescep@dps.state.ia.us</u> or by facsimile to (515)242-6299.

Complaints should be as specific as possible and shall clearly identify the contractor against whom the complaint is filed. A form which may be used to file complaints is available on the Web site of the fire extinguishing system contractors certification program at <a href="http://www.state.ia.us/government/dps/fm/fescep">http://www.state.ia.us/government/dps/fm/fescep</a>. Complaints may be filed without using the complaint form provided, but shall be submitted in writing. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

**661—275.7(100C) Denial, suspension, or revocation of certification; civil penalties; and appeals.** The fire marshal may deny, suspend or revoke the certification of a contractor, or assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as a fire extinguishing system contractor is violated.

**275.7(1)** Denial. The fire marshal may deny an application for certification:

a. If the applicant makes a false statement on the application form or in any other submission of information required for certification. "False statement" means providing false in-

formation or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

- b. If the applicant fails to meet all of the requirements for certification established in this chapter.
- c. If the applicant is currently barred for cause from acting as a fire extinguishing system contractor in another jurisdiction.
- d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire extinguishing system contractor and if the basis of that action reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have been previously barred for cause from operating as a fire extinguishing system contractor in another jurisdiction and is no longer barred from doing so, the fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a certified contractor. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.
- e. If the applicant has been convicted of a crime which reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have a criminal record, the fire marshal shall evaluate that record with regard to the likelihood that the applicant would operate with integrity as a certified contractor. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.
- 275.7(2) Suspension. A suspension of a certification may be imposed by the fire marshal for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as a fire extinguishing system contractor in this state. Failure to provide any notice to the fire marshal as provided in these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the certification even after the period of the suspension.

**275.7(3)** Revocation. A revocation is a termination of a certification. A certification may be revoked by the fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire extinguishing system incorrectly installed by a certified contractor or when information comes to the attention of the fire marshal which, if known to the fire marshal when the application was being considered, would have resulted in denial of the certification.

A new application for certification from a contractor whose certification had previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The fire marshal may specify in the revocation order a longer period than one year before a new application for certification may be considered. When a new application for certification from a contractor whose certification was previously revoked is being considered, the applicant may be denied certification based upon the same information which was the basis for revocation even after any such expired period established by the fire marshal has expired.

**275.7(4)** Civil penalties. The fire marshal may impose a civil penalty of up to \$500 per day during which a violation

has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

- **275.7(5)** Suspension or revocation for nonpayment of child support. The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:
- a. The notice required by Iowa Code section 252J.8 shall be served upon the certified contractor by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the contractor may accept service personally or through authorized counsel.
- b. The effective date of revocation or suspension of certification of a contractor, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the contractor.
- c. Contractors shall keep the fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.
- d. All applicable fees for an application or reinstatement must be paid by the contractor before a certificate will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a certification or has suspended or revoked a certification pursuant to Iowa Code chapter 252J.
- e. In the event a contractor files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the certification, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.
- f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule 275.7(5) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a certification program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

**275.7(6)** Appeals. Any denial, suspension, or revocation of a certification, or any civil penalty imposed upon a certified contractor under this rule, other than one imposed pursuant to subrule 275.7(5), may be appealed by the contractor within 14 days of receipt of the notice. Appeals of actions taken by the fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

These rules are intended to implement Iowa Code chapter 100C.

> [Filed 5/5/06, effective 7/1/06] [Published 5/24/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/24/06.

#### **ARC 5115B**

## **REGENTS BOARD[681]**

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby adopts amendments to Chapter 6, "University of Iowa Hospitals," Chapter 8, "Purchasing," Chapter 10, "Records Management," and Chapter 17, "Public Records and Fair Information Practices," Iowa Administrative Code.

These amendments are intended to update references to the Iowa Code, delete outdated rules, and make additions to comply with Iowa Code changes and with updated business practices.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 1, 2006, as ARC 4928B. A comment period was established and ended March 21, 2006. No comments were received. These amendments are identical to those published under Notice.

These amendments were approved during the May 4, 2006, meeting of the Board of Regents.

These amendments will become effective on June 28,

These amendments are intended to implement Iowa Code chapter 262.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 6, 8, 10, 17] is being omitted. These amendments are identical to those published under Notice as ARC 4928B, IAB 3/1/06.

> [Filed 5/5/06, effective 6/28/06] [Published 5/24/06]

[For replacement pages for IAC, see IAC Supplement 5/24/06.]

## ARC 5119B

## **REVENUE DEPARTMENT[701]**

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 422.68(1) and 423.42(1), the Department of Revenue hereby amends Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Chapter 103, "Hotel and Motel—Administration," Chapter 104, "Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest," Chapter 105, "Hotel and Motel—Imposition of Tax," Chapter 107, "Local Option Sales and Service Tax," Chapter 211, "Definitions," Chapter 219, "Sales and Use Tax on Construction Activities," Chapter 230, "Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing, and Chapter 231, "Exemptions Primarily of Benefit to Consumers," and adopts new Chapter 241, "Excise Taxes Not Governed by the Streamlined Sales and Use Tax Agreement," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII, No. 20, p. 1463, on March 29, 2006, as **ARC 5013B**.

These amendments are intended to implement 2005 Iowa Code Supplement chapter 423, otherwise known as the Streamlined Sales and Use Tax Act and the increasing number of excise taxes which are being placed outside of that Act.

Item 1 amends rules 701—10.110(422A) and 701-10.111(422A) to update the parenthetical implementation and the implementation clause for each rule to reflect the fact that these rules no longer implement Iowa Code chapter 422A but instead implement Iowa Code Supplement chapter

Item 2 amends 701—Chapter 103 extensively to reflect the fact that there is a new tax (state-imposed and locally imposed) on lodging which is a separate tax outside of the Streamlined Sales and Use Tax Agreement. Item 2 also generally updates the chapter.

Item 3 accomplishes the same purposes as those in Item 2 but with respect to 701—Chapters 104 and 105.

Item 4 amends rule 701—107.8(422B) because nexus re-

quirements regarding local option taxes have changed. Item 5 amends rule 701—107.9(422B,422E), which sets out the exemptions from local option taxes.

Item 6 amends rule 701—211.1(423) to update the definitions of "sales price" and of "services" and the implementation clause.

Item 7 amends rule 701—219.21(423) to explain that sales of equipment for subsequent rental to building contractors is now subject to its own separate tax outside of the Streamlined Sales and Use Tax Agreement.

Item 8 amends rule 701—230.2(423) to state that rental of tangible personal property remains the performance of a service and not the sale of that property for the purposes of the services used in processing exemption for food manufactur-

Item 9 amends rules 701—231.6(423), 231.7(423) and 231.8(423), which deal with exempt sales of medical equipment and drugs to consumers. It is necessary to amend these rules to incorporate new definitions of several types of medical equipment which are required under the Streamlined Sales and Use Tax Agreement.

Item 10 adopts new 701—Chapter 241 to cover excise taxes which are not governed by the Streamlined Sales and Use Tax Agreement.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective June 28, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2005 Iowa Code Supplement chapters 423, 423A and 423D.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Chs 10, 103 to 105, 107, 211, 219, 230, 231; adopt Ch 241] is being omitted. These amendments are identical to those published under Notice as ARC 5013B, IAB 3/29/06.

> [Filed 5/5/06, effective 6/28/06] [Published 5/24/06]

[For replacement pages for IAC, see IAC Supplement 5/24/06.]



HOUSE JOINT RESOLUTION 2006

#### A JOINT RESOLUTION

NULLIFYING ADMINISTRATIVE RULES RELATING TO THE MANDATORY
REPORTING OF CERTAIN ACTS OR OMISSIONS BY PERSONS LICENSED
BY THE IOWA BOARD OF DENTAL EXAMINERS AND PROVIDING AN
EFFECTIVE DATE.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. 650 Iowa administrative code, rule 10.6, subrule 4, and rule 30.4, subrule 24, first unnumbered paragraph, relating to the mandatory reporting of certain acts or omissions by persons licensed by the Iowa board of dental examiners, are nullified.

Sec. 2. EFFECTIVE DATE. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

CHRISTOPHER C. RANTS

Speaker of the House

JEFFREY W. LAMBERTI

President of the Senate

I hereby certify that this joint resolution originated in the House and is known as House Joint Resolution 2006, Eighty-first General Assembly.

MARGARET THOMSON

Chief Clerk of the House

IOWA ADMINISTRATIVE BULLETIN Customer Service Center Department of Administrative Services Hoover State Office Building, Level A Des Moines, Iowa 50319

PRSRT STD U.S. Postage PAID Des Moines, Iowa Permit No. 1195